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Meeting Of The

ASSEMBLY INTERIM COMMITTEE

ON

MUNICIPAL AND COUNTY GOVERNMENT

TRANSCRIPT OF HEARING
On the Subject of
DISTRICT REORGANIZATION
ACT OF 1965; hearing
Richmond, ~~California~~
September 16, 1964

Members of the Committee

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Mrs. Joyce Trathen, Committee Secretary

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INDEX

(In Order of Appearance)

		Page
1.	Mrs. Marilyn Blawie Resident, Union Sanitary District	11
2.	Mr. Jack Wickware Assistant Legal Counsel League of California Cities	18
3.	Mrs. Kurth Huth League of Women Voters	20
4.	Miss Peggy L. McElligott Wilson, Harzfeld, Jones & Morton	23
5.	Mr. Robert Moock McCormick, Moock & McCormick	38
6.	Mr. Frederick Bold Carson, Collins, Gordon & Bold	41
7.	Mr. Paul Soltow California Sanitary & Sanitation Districts Association	44
	Mr. Robert Angle Goleta Sanitary District	46
8.	Mr. Robert Durbrow Irrigation Districts Association	49
	Mr. Jerome Gilbert Chairman, County Water District Section of the IDA, and Manager North Marin County Water District	56
9.	Mr. H. Jess Senecal Public Water Agencies Group	59
10.	Mr. Alex Bowie Rutan & Tucker	68
11.	Mr. Lathon B. Brewer Division Fire Chief, County of Los Angeles	70

Page

12. Mr. Raymond A. Boege 73
General Manager and Chief Engineer
Union Sanitary District

13. Mr. Gordon Nesvig 75
Executive Officer, Los Angeles County
Local Agency Formation Commission

14. Mr. Joseph C. Gill 79
District Counsel for the Los Angeles
County Sanitation Districts

15. Mr. Robert Small 81
Executive Officer for the San Diego
Local Agency Formation Commission

16. Mr. Jack Merelman 83
County Supervisors Association

APPENDIX

Statement of Robert O. Angle 88
Cavalletto, Webster, Mullen & McCaughey

ASSEMBLY INTERIM COMMITTEE

on

MUNICIPAL AND COUNTY GOVERNMENT

John T. Knox, Chairman

Wednesday
September 16, 1964
City Council Chambers
Richmond, California

Present:

John T. Knox, Chairman
Alfred E. Alquist
Anthony Beilenson
Clair Burgener
Frank Lanterman
John G. Veneman

Staff:

Thomas H. Willoughby, Committee Consultant
Joyce Trathen, Committee Secretary

CONSIDERATION OF PROPOSED DISTRICT REORGANIZATION ACT OF 1965

CHAIRMAN KNOX: This is a regularly called meeting of the Assembly Interim Committee on Municipal and County Government, and my name is John Knox. I'm Chairman of the committee, and to my far left is Assemblyman Frank Lanterman from La Canada, to his left Assemblyman Alquist from Santa Clara County, to his left, Assemblyman Clair Burgener of San Diego. To my immediate left is Mr. Thomas

Willoughby, our Committee Consultant. To my right is the committee secretary, Mrs. Joyce Trathen, and Assemblyman John Veneman from Modesto and to his right Assemblyman Anthony Beilenson of Beverly Hills.

I would like to read over an outline of the proposed "District Reorganization Law" in order to set the tone for our discussion today. We have asked all of the witnesses to address themselves to this outline, with the idea that they would criticize, or praise it, or tear it apart or do whatever is best for the guidance of the committee when we meet in December to make up our final report to the Legislature.

It may take a little time to read this, but I would like to go over it because it is going to be the basis of our discussion today.

I. PREAMBLE: General Objectives of Act

The general object of the proposed District Reorganization Act of 1965 ("Act") will be to provide a means of assuring that needed local public improvements and services will be furnished by the local agency best able to provide the same with the greatest efficiency and at the least cost to the public.

Special districts have been and will continue to be one of the most useful tools for furthering this general object. However, the strength and usefulness of special districts can be preserved only if some means is provided to insure that such districts will be used only to meet legitimate public needs in those situations where other agencies of local government are unable or unwilling to provide for such needs.

To that end, 1963 legislation provided for review by local agency formation commissions of all proposals for the formation of new districts and annexations to existing districts. To the same end this Act will provide for similar review of other changes of organization by existing districts. The Act will also provide a uniform procedural method, applicable to all special districts, for effecting such changes of organization.

Existing legislation provides no satisfactory method for the elimination of unnecessary district "overlaps" or for coordinating and simplifying the structures of overlapping district governments. In addition, there are no legislative provisions concerning the so-called "automatic merger" of a district with a city which completely overlaps such district. The Act will furnish a means of providing a solution for both of these problems.

II. Specific Aims of Act and Provisions Therefore

In furtherance of its object, the Act will provide:

1. Review. All proposals for a change of organization or reorganization will be subject to review by the local agency formation commission. Such review will be substantially similar to that provided in the 1963 legislation.

2. Uniformity of Procedure For Making Changes of Organization. A uniform procedure, applicable to all districts, will be provided for effecting changes of organization in all existing districts.

3. Facility in Initiating Changes of Organization. Initiation of proceedings, both by petition and application of local agencies, will be liberalized. There will be suitable provisions permitting obviously ill-considered proposals to be quickly screened out without the necessity of further review or proceedings by the commission or local agencies. On the other hand, if there is a substantial local demand for a change of organization, mandatory review by the commission will be required.

4. Method for Simplifying District Structures and Organization. The Act will provide a new procedure to be known as "reorganization". A single proceeding will be provided whereby multiple changes of organization can be effected for two or more districts of the same or different types. The reorganization procedure will be similar to the provisions now applicable to school districts. The judicially developed doctrine of "automatic merger" of a district which is 100% overlapped by a city will be abolished. In its place, provisions will be made authorizing controlled mergers and the establishment of subsidiary districts in those cases where a district is substantially, but not completely, overlapped by a city.

III. APPLICATION OF ACT

1. Types of Action Covered by Act. The Act will apply to the following types of changes of organization: (a) annexations, (b) detachments, (c) minor boundary changes, (d) dissolutions, (e) consolidations, (f) merger of a district with a city, or the establishment of a district as a subsidiary district of a city, and (g) reorganizations consisting of any combination of the foregoing changes of organization for two or more districts. Although annexations are already subject to the local agency annexation commission law adopted in 1963, in the interests of uniformity the new Act will provide for annexations, as well as other changes of organization.

2. Districts Subject to Act. The Act will be applicable to the same districts now subject to the 1963 local agency formation and annexation laws. This includes all types of special districts, except school districts, but does not include assessment districts, improvement districts or zones. If there is a proposed merger or establishment of a subsidiary district, cities will to that extent be subject to the Act.

3. Scope of Act. Following its adoption, the Act will provide the "exclusive method" for effecting changes of organization and the repeal of all contrary statutes will then become effective.

IV. JURISDICTIONAL AUTHORITY UNDER THE ACT

1. Role of Local Agency Formation Commissions. Local agency formation commissions will be given powers over changes of organization and reorganization which will be substantially similar to those vested in them by the 1963 legislation pertaining to formations and annexations. This will be a power to review any proposal and to

approve or disapprove the same, in whole or in part, subject to terms and conditions. The commission will have no power to make any final order for a change of organization.

2. Role of Local Legislative Bodies. After completion of review and approval of a proposed change of organization by the local agency formation commission, final proceedings to disapprove or order a change of organization will be taken by a legislative body. Annexation, detachment and minor boundary change proceedings (which affect only one district) will be taken by the board of directors of the affected district. Proceedings affecting the continued existence of an entire district (consolidation or dissolution) or more than one district (merger, subsidiary districts, reorganization) will be taken by the county board of supervisors.

V. INITIATION OF PROCEEDINGS.

1. General. Proposals for a change of organization or reorganization may be made by petition, by application of any affected local agency or on motion of the local agency formation commission. All such proposals will be directed to and processed by the local agency formation commission.

2. Initiation by Petition. Petitions will be of two types: a "permissive" petition, with a modest signature requirement, such as 5%; and a "mandatory" petition with a substantial signature requirement, such as 35%. A permissive petition may be denied by the commission without notice and hearing; if approved, the commission must give notice and hearing prior to making any determinations upon the proposal contained in such petition. A mandatory petition cannot be

denied without notice and hearing and the commission must take action thereon by way of notice, hearing and determinations.

3. Initiation by Application of Local Agency. The legislative body of any affected county, city or district may make application for a change of organization of a district. Such application will also be classified as "permissive" or "mandatory" in nature, having the same effect as above discussed for petitions. An application will be permissive if it proposes a change of organization for some district other than the applicant. If the applicant district proposes a change of organization for itself, the application will be deemed mandatory.

4. Initiation On Motion of Local Agency Formation Commission. If a proposal is made by the local agency formation commission, notice and hearing must be afforded before any final determination is made by the commission upon such proposal.

VI. PROCEEDINGS BY COMMISSION.

The local agency formation commission must give notice and hearing, and make determinations upon the following proposals: upon electing to go forward upon a permissive petition or application; upon the filing of a mandatory petition or application; or on the motion of the commission. Minor boundary changes may be approved without notice and hearing.

Notice of hearing must be given by publication and posting and by mailing to each affected county, city and district.

The powers of the commission will be substantially similar to those contained in the 1963 legislation pertaining to local

agency formation commission. After hearing, the commission may approve or disapprove the proposal, in whole or in part, subject to terms, conditions and modifications.

VII. PROCEEDINGS BY LOCAL LEGISLATIVE BODIES.

If the local agency formation commission, after notice and hearing, approves a proposal, in whole or in part, then the board of directors of the affected district or the board of supervisors, as the case may be, must take the final proceedings leading to the final disapproval or ordering of a change of organization.

1. Annexations, Detachments and Minor Boundary Changes. Proceedings will be taken by the board of directors of the affected district. Notice of hearing must be given by publication and posting and by mailing to affected landowners, voters and other affected local agencies. Proceedings must be abandoned upon the filing of a majority protest by landowners or voters. If there is no majority protest, the board of directors must order the annexation or detachment as follows: (i) In the case of uninhabited territory, the order of annexation or detachment may, in the discretion of the board, be made without election or subject to confirmation by the voters, and (ii) in the case of inhabited territory such order shall be subject to confirmation by the voters. The board of directors may determine whether any election is to be called within only the territory ordered to be annexed or detached, or within both such territory and the entire district. Minor boundary changes may be made without notice and hearing or election.

2. Dissolutions, Consolidations, Mergers, "Subsidiary Districts" and Reorganizations. Proceedings will be taken by the board of supervisors of the county or the principal county. Notice of hearing must be given by publication and posting and by mailing to each affected local agency.

Dissolution for non-user corporate powers may, in the discretion of the board, be ordered with or without election. In all other cases, dissolution must be ordered subject to confirmation of the voters within the district.

Consolidation of two or more districts must be ordered subject to approval by the voters within each district to be consolidated.

A merger of a district with a city or the establishment of a district as a subsidiary district of a city, must be ordered subject to approval of the voters. The board may determine whether the election is to be called only within the district, or both within such district and the city.

A reorganization must be ordered subject to confirmation by the voters in all of the districts whose organization is affected by such reorganization.

VIII. MERGER AND SUBSIDIARY DISTRICTS.

Under the judicially developed doctrine of "automatic merger" a quasi-municipal type of district is automatically extinguished and merged into a city whenever 100% of the territory of the district

lies within the boundaries of a city. No definitive action or proceeding by the city, district or any other agency is required to effect an automatic merger. This results in the possibility of uncertain and capricious results: (i) outside of sanitary districts and county water districts, it is not known what types of districts are subject to merger; (ii) a merger desired by neither the city or the district may result; and (iii) if only 99% of the district is located within the city, there can be no merger.

The Act will repeal the doctrine of automatic merger, and in its place will substitute controlled mergers and the establishment of "subsidiary districts". It will also list by specific types those districts subject to such provisions.

If a district is 100% overlapped by a city, either a merger or the establishment of a subsidiary district may be ordered. If more than 80%, but less than 100%, of a district is overlapped by a city, only the establishment of a subsidiary district may be ordered.

A "merger" will result in the extinguishment of the district and the transfer of all of its assets and liabilities to the city. The "establishment of a subsidiary district" will result in the continued existence of the district under the principal act pursuant to which it was formed. However, instead of the board of directors being selected as provided in the principal act, the city council will be empowered to be the ex-officio board of directors of the district. In this respect it will be similar to the board of supervisors which acts as the ex-officio board of directors of flood control districts, sanitation districts, waterworks districts, etc.

IX. REORGANIZATIONS.

1. General Procedure for Reorganization. Multiple changes of organization affecting two or more districts can be effected through a single reorganization proceeding. The reorganization provisions of the Act will be patterned after the Education Code provisions pertaining to the optional reorganization of school districts.

A reorganization will be based upon a plan of reorganization to be developed by a "reorganization committee". The reorganization committee will consist of representatives from each of the districts directly affected by the reorganization. Upon the failure or refusal of the reorganization committee to develop a plan of reorganization, such plan may be developed by the local agency formation commission.

The plan of reorganization may provide for any of the various types of changes or organization for any or all of the districts and, if advisable, for the formation of new districts. To facilitate reorganizations and to provide an equitable means of apportioning assets and liabilities, the plan of reorganization may contain special provisions for: special taxes and charges, assumption of debt, division of property, priorities for water rights or capacity rights, disposition of personnel, etc.

CHAIRMAN KNOX: Now that is the outline of the proposed District Reorganization Act, and as I said, the witnesses today have been asked to address themselves to it.

Our first witness this morning is Mrs. Marilyn Blawie, who is a resident of the Union Sanitary District.

MRS. BLAWIE: My name is Marilyn Blawie. I am a resident of the City of Fremont, which is midway between Hayward and San Jose. I am an associate professor of political science at Cal-State in Hayward. I am a member of the Connecticut Bar. I have authored two books and have co-authored several articles on local government. I am also, as of September 8th, an unsuccessful candidate for a position on the Board of Trustees of the Union Sanitary District.

I believe that the experience of the group working with me in that election -- a reform group -- might be of interest to you in connection with the legislation which has been proposed.

First, the reason I was concerned with the operation of the Union Sanitary District --- The Union Sanitary District was formed in 1914, has a current tax rate of some $.40 and is, therefore, a major agency as far as governmental expenditures are concerned in this area.

Quite apart from that fact, there had been an announcement in the newspaper to the effect that the chairman of the board, who has been sitting on the board without interruption since 1914, would be retiring. Thus there would be three vacancies out of five positions on the board. This appeared to be an opportunity for a change, and many individuals remarked that it was time for a change.

Union Sanitary District elections were to be held on the 8th of this month. On the 15th of this month, yesterday, a second election -- a school bond election -- was to be held. Many individuals in the area felt that the two elections might well be consolidated since the voters in this area had been drawn out to the polls six, seven,

eight and nine times a year.

The original announcement that there would be a vacancy due to the chairman's resignation also made reference to the fact that if only one person applied for the position the board would appoint him to fill the vacancy and the two incumbents would remain in office. If more than one application came in, an election would have to be held which would cost the residents of the district about $2,300. Some of us felt that this manner of making announcements tended to discourage applicants for the board.

We contacted the secretary of the board who pointed out that we could be sure that there would be three applicants, but that the board could not decide to merge the election with the school bond election which was to be held the subsequent week. I might point out that at this point we were not aware of the fact that the date, September 8th, was a date fixed by statute for elections for sanitary districts. This date fell the day after Labor Day and the day before Admission Day. Obviously not much of a turnout for that day could be expected.

At any rate, three of us decided to go ahead, filing as a slate, with a platform including consolidation of local districts, consolidation of local elections, a municipal garbage service collection for the area, and various other proposals.

We had some difficulty in connection with securing filing petitions from the board. We spoke to the secretary of the board and were told that the counsel for the board was located not in Fremont, but in the City of Oakland; so that if I wished a petition, I should go to the counsel's Oakland office. Being just somewhat ignorant of the ways of sanitary districts, I pointed out that ovviously the election code provisions would govern and I was pretty certain that the Election Code required that petitions be maintained within the district. The secretary promised to check and

did indeed check and in due course petitions were available, were signed, and were submitted.

There was additional trouble about accepting the petitions. There was uncertainty as to whether the professional staff would accept the petitions or whether they had to be accepted in person by the secretary of the board. This was a serious consideration since the secretary had gone out of town and we had no assurance that he would return before the end of the filing period.

The next item of major importance concerns what we call in a court suit, "The Faceless Man Ballot". By this time the election had attracted a total of nine candidates for three seats. A ballot was issued listing the two incumbents who had served long terms at the top as "incumbent", but listing the remaining candidates for office simply by name, with no occupational designation. Three of us had not seen a ballot of this type before, since occupational designation was pretty standard on other ballots in that area. We did find subsequently that apparently occupational designations have never been used by this district in situations where there had been contest. Counsel for the district maintained that the Health and Safety Code governed and not the Election Code provisions, and therefore, he saw nothing wrong with the ballot as it had been issued.

We went then to the District Attorney's Office, maintaining that the ballot appeared to be in violation of the Election Code provisions which do allow for the listing of occupational designation in cases where the candidate so desires. The District Attorney was very solicitous and referred us to the county clerk, who pointed out that the ballot had been prepared by the district, and that if we had a quarrel with the district, our only option was to sue the district, which we did subsequently.

Let me add here that through all of the years of the districts operation there had been no serious argument made to the effect that the "Faceless Man" ballot was a legal ballot.

Represented by counsel, we had a hearing on the Thursday prior to the Tuesday at which the election itself was to be held. At that hearing the judge ruled that an injunction could not be issued at this late date because of the intervening Labor Day holiday, which would make it impossible to print up new ballots. If, after the election the candidates involved still felt themselves to have been harmed their remedy at that point would be to sue the district.

We proceeded at this point with our campaign, attempting to attract a large vote on the subsequent Tuesday. On the Tuesday of election day we had sound trucks working in the area for some six or seven hours, doing their very best to avoid polling places. The personnel of the sound trucks noted very few signs placed at points where the voting was to take place. The election was a much less expensive one than elections normally are in that area. The polling places had been consolidated. Many voters were quite confused as to where to go in order to cast their vote. There were a couple of polling places in garages, although for the most part they were in public places. Most individuals, however, had to travel some two to three miles in order to come to the polling places.

Let me say as a resident of this area that I have voted in some four garages and some five public places in various elections over the last four years. Whenever these elections come around it is a major question as to where one goes to vote.

There was also some confusion as to the time for voting. The newspapers had announced that the polling places were to be closed at 7:00. Due to a change in state law they were actually open until 8:00.

After the election we had two watchers present where the votes were being counted at the Union Sanitary District Office. One of the incumbents, himself a candate for re-election, was in charge of tallying the votes. This very likely -- or very possibly -- is legal. We didn't have time to check that. But nonetheless it is not what one would expect as ordinary election procedure.

Even with nine candidates running, two of them very prominent locally, the turnout was very, very low. Only 9.2% of the residents of this district voted. The vote was 3,236 out of a total registered and eligible of 34,754. I was interested in determining whether this type of turnout is typical, and I found in an adjoining sanitary district the turnout this year was actually somewhat lower than 9.2%. So we had a good turnout, everything considered.

Now as to the relevance of this legislation, we believe that the value of requiring approval of the voters as outlined on page 8 of your proposed procedure is of dubious value. It occurs to me that it would be a bit more likely that such changes in organization would come about if there were to be no election but only a requirement for a petition signed by a significant number of registered voters in the district -- perhaps 20%.

If you will bear with me for just a moment, I would like to read to you from the textbook which is in common use here in California. It is Crouch, McHenry, Bollins, & Scott's California Government and Politics, the latest edition, page 226. In speaking of special districts in California the authors have this to say: "Although they are intended to be agencies of democratic government, districts present many problems - the greatest single weakness of the 'directly elected' district board is its low political visibility. Citizens are generally uninformed about district

activity. Often they are completely unaware of the district which governs them. Not even the tax bill makes them aware. District taxes are collected by the county and most taxpayers think the whole levy goes to support the county government. It is not surprising that unawareness and apathy have resulted in the cancelation of a great many scheduled district elections for lack of opposition to the incumbents, and in extremely low voter participation when elections are held". Elsewhere in the same volume they call district elections "farcical".

I would also suggest that, if the elections are to be held, the committee might wish to consider the advisability of holding such elections at a time when a fairly great turnout might be assured -- such as the fall general elections, the primaries or municipal elections. It would certainly do a good deal to encourage voter participation.

I would also suggest, given our experience, that ballots should certainly be prepared by precincts determined by election officials appointed by, and votes tallied by persons other than those directly concerned -- by county officials for example.

ASSEMBLYMAN LANTERMAN: Are you aware of some of the municipal elections and the percentages of turnout?

MRS. BLAWIE: Yes, I am. I realize that about 30% turnout at municipal elections is not extraordinary.

MR. LANTERMAN: Do you know of any lesser than that?

MRS. BLAWIE: I understand there have been many less, and that in some instances municipal elections have not been held. However turnout is generally still better than 9%.

MR. LANTERMAN: I wanted to make a comparison with a major city in Southern California. This is a city of 120,000 and has an excellent administration. The turnout for a charter amendment for the authorization of revenue bonds was about 10-1/2%. So I simply point out to you that there is no assurance that we will have what you would call full participation in local affairs, whether it's a district or a city. I simply bring that to your attention.

CHAIRMAN KNOX: Mr. Veneman.

MR. VENEMAN: Did you determine with your counsel which code prevailed in the case of such election -- whether it was the Election Code or the Health and Safety Code.

MRS. BLAWIE: There was considerable dispute over this. This was an area where there had been no previous decisions. The Health and Safety Code provisions provide that the Elections Code should govern insofar as practicable. We maintain that it was more than practicable to have occupation, vocation, and so forth designated on the ballot. Our attorney tells me that we had a very good case with very good grounds on which to appeal.

The district will probably not again use one of these ballots. We have served notice upon the district that if we find such a ballot used again in the future it will have another law suit, so that there can be a full determination of this point.

The argument in court, just prior to the election was not to the effect that the ballot was illegal. The judge in rendering his opinion said that dispite the fact that there appeared to be some irregularity in the ballot, he would not issue an injunction because of the time factor; but would leave us to seek remedy after the actual election had been held.

CHAIRMAN KNOX: Thank you very much, Mrs. Blawie. We appreciate your coming.

Mr. Jack Wickware, Assistant Counsel of the League of California Cities.

MR. WICKWARE: Mr. Chairman and members of the Committee, my name is Jack Wickware and I am appearing on behalf of the League of California Cities to express our comments on the Proposed District Reorganization Act of 1965.

We would like to compliment the committee and its staff for the very excellent approach that has been made to the solution of a very complex subject.

The problems raised by overlapping districts have been recited many times and there is no need to repeat them here. Since the committee desires comments to be confined to the outline for district organization, I shall proceed with that in mind.

We are in agreement with the general approach taken by the reorganization act in adopting a uniform procedure for all special districts. The general objectives of the act are well stated on page 1, but for completeness it might be expanded to indicate that the strength and usefulness of special districts can be preserved not only if some means is provided to insure their use only when other local agencies are unable or unwilling to provide the service, but also to insure that such districts will be dissolved or merged with a city upon withdrawal of territory, when the purpose for which the district was created no longer exists or when the city is providing the same service.

Review of the various types of change in reorganization or reorganization by the Local Agency Formation Commission is a logical role for the Commission to preform in view of its present function. The Commission will provide a proper local forum for review of withdrawal, dissolution and consolidation considering the same or similar standards used in reviewing proposals for annexation and formation of special districts. Such review should provide an additional tool to the commission in reviewing the proposals for annexation and formation in that the commission can consider the full range of possibilities of boundary changes.

We find no objection to the methods of initiating proceedings. A 35% signature requirement to require a commission hearing is above the usual 25% in initiating other types of proceedings, and could hinder the initiation of proceedings by people within the district. A 25% requirement would seem adequate to indicate sufficient popular interest and yet not plague the commission with a multiplicity of vexations requests for review.

The two areas of reorganization which are greatest concern to cities are the withdrawal of territory upon annexation and the merger upon complete inclusion within the city by annexation or incorporation. It is to these two matters we would like to address our remarks.

In Section VII the district board is given authority to determine whether any election to be called will be held only in the territory affected or within such territory and the entire district. In the past such proposals have proved a troublesome area in cases involving territory annexed to a city which desires to withdraw. To permit a district wide election would be equivalent almost to defeat of any withdrawal. This would perpetuate the inequity frequently complained of by city residents who are also in a special district. The result would be that in spite of the desire of all persons in the territory to be withdrawn, approval by the commission, no protest, an unfavorable board could actually defeat the withdrawal by calling an election throughout the district. This would perpetuate some of the very problems existing today which this proposed legislation is designed to solve. As we have suggested before, in withdrawals following annexation uniform procedures should follow the pattern already established for fire districts. This procedure permits withdrawal by resolution of the city council and a division of property and unencumbered funds by agreement between the city and the district. The territory is no longer liable for taxes and assessments of the district except for outstanding bonds. Since the local agency formation commissions will be considering the proposed annexation of territory to the city, it could consider the withdrawal at the same time.

Section VIII would abolish the doctrine of "automatic merger" of a special district into a city when all territory of a special district is included within a city by annexation or incorporation. The League's position has been one of support for the court decisions in this matter for the simple reason that upon such complete inclusion there no longer exists any reason for the continuance of the district since the territory lies entirely within a governmental agency capable of providing the same service as well as all municipal services. Although the outline indicates it is not known what other types of districts are subject to merger outside of sanitary districts and county water districts and while it is true that only these types of districts have been considered by the courts, it is very likely that other districts would also be included within the doctrine. It might be mentioned that it is very unlikely that any "involuntary" mergers will occur in the future in view of the widespread knowledge of the court decisions and because of local agency formation review at any early stage in the proceedings.

While we approve the doctrine we have always recognized that a procedure for transition from the district to city responsibility was necessary. We are also aware that a few cities and districts may not wish to merger to occur and yet, the district may desire to incorporate or to annex all its territory to the city.

As we read the outline, upon the complete inclusion of a district within a city, a merger would not result. Only the district itself could require the commission to hold a hearing. If the merger were approved, then the decision rests with the board of supervisors to require an election, either in the district alone or in both the district and the city. Unfortunately, this will probably perpetuate the continuance of those districts completely overlapping and entirely absorbed within a city, a condition the proposed legislation is designed to correct. A preferable approach in line with the intent of the proposed legislation would be to permit the city who must assume the responsibilities of the district to initiate the proceedings on a mandatory basis before the commission. This would also make unnecessary a city wide election on the question.

In conclusion, may I repeat our commendation on the proposed legislation. It represents a major step forward in solving one of the most critical problems in local government.

CHAIRMAN KNOX: Thank you very much. I appreciate your coming.

Mrs. Kurt Huth from the League of Women Voters.

MRS. HUTH: Mr. Chairman and members of the committee, I am Mrs. Kurt Huth from Berkeley, consultant on state and local relationships for the League of Women Voters of California. My introductory remarks are not in this printed statement. Throughout the State of California we have over 12,000 members in local communities working to promote political responsibility through informed and active participation of citizens in government. In a sense we are lobbying and representing an informed segment of the voting public. We do not consider ourselves experts for our positions are based on sustained studies, talks, discussions, and members' reports. The League of Women Voters of California appreciate this opportunity to comment on the proposed "District Reorganization Act of 1965"

The need for revision and simplification of special district legislation -- that is, for measures designed to reduce the number of autonomous special districts and to provide for their greater regulation and control -- became very clear to our members during our study of special districts.

We consider the District Reorganization Act a step in the desired direction, and compliment the committee on what appears to be a fairly simple solution to part of a very complex problem.

The League would like to underscore, by comment, the following sections:

1. The section relating to proposals for eliminating unnecessary district overlaps appears to be a practical and fair solution.

2. The section which provides for the "exclusive method" for implementing changes of organization and for repeal of all contrary statutes will simplify special district legislation already in existence. That in itself will be an achievement of no small import.

3. The section on the initiation of proceedings we particularly underscore. Providing for initiation of changes by petition enables the voter and taxpayer to take steps to

correct an uneconomic special district situation in his own county -- or at least to bring it to the attention of the Local Agency Formation Commission for a review of the problem.

4. The section dealing with the non-user of power statute to eliminate districts which are no longer active - League members feel this type of legislation is especially necessary.

In addition, we call the committee's attention to the following areas which we feel warrant inclusion:

1. We understand there has been some question regarding exactly which special districts are included in the 1963 legislation and that the Attorney General will soon make a ruling on this. When this ruling is received, the necessary clarifying language should be inserted into this proposed Act.

2. It seems also that some clarification might be desirable regarding enforcement of Local Agency Formation Commission recommendations, especially with respect to conditional approvals.

3. The advantages of special districts being governed by a county Board of Supervisors are obvious: among them are the availability of better administrative, technical, and legal services; uniform planning and record keeping; coordinated purchase and use of equipment; annual scrutiny and public hearings of budgets. Such an arrangement may also be more responsive to the will of the electorate. Citizens are undoubtedly more aware both of the election and the workings of the Board of Supervisors than of the obscure special district board - sometimes the multiplicity of boards - charged with matters which affect their well-being. For these reasons it might be well to encourage special districts to seek such a governmental arrangement.

Generally speaking, if this Act becomes law, the responsibility for correcting some of these apparent problems, such as duplication of services and equipment, fractionated authority, and lack of administrative control, will be directed through the Local Agency Formation Commissions to the Board of Supervisors and the special districts involved. Local control of local problems will be retained. It can then be hoped that the local agencies involved will act to discharge their responsibility for the solution of these problems in the best interest of the citizens they represent.

CHAIRMAN KNOX: Thank you very much, Mrs. Huth. Mr. Lanterman has a question.

MR. LANTERMAN: In page two, paragraph three, relating to the advantages of special districts being governed by the county boards of supervisors -- what county have you in mind in which this would be most advantageous?

MRS. HUTH: I think probably all counties in which there are special districts.

MR. LANTERMAN: Has it occurred to you what such a move might mean in added burden to the County Board of Supervisors of Los Angeles County, for instance?

MRS. HUTH: If they were to have all special districts, it might be impossible.

MR. LANTERMAN: Had it occurred to you that perhaps these advantages might be achieved by contracting for these services with the county such as some cities have done. The district could still have their own elective local boards. Have you considered this?

MRS. HUTH: We haven't; this is another part of our study of state - local relationships.

MR. LANTERMAN: The only concern that I have here is with a board of supervisors such as that in Los Angeles, which has the problems of six and 3/4 million people to deal with and the inter-relationship of some 70 odd cities, it would seem to me that there should be some alternative to your recommendation in an instance of this kind. I wouldn't care to burden a board of supervisors with more obligations where they would virtually have to create additional departments to operate for this purpose.

MRS. HUTH: It would be different probably with each county.

CHAIRMAN KNOX: Thank you very much for coming, Mrs. Huth.

Our next witness this morning is Miss Peggy L. McElligott, who is an attorney with the firm of Wilson, Harzfeld, Jones and Morton of San Mateo.

MISS PEGGY McELLIGOTT: I am Peggy L. McElligott with Wilson, Harzfeld, Jones and Morton of San Mateo, representing in addition the Ora Loma Sanitary District.

I must first apologize for not having a prepared presentation. Unfortunately, I have not had time to sit down and do it.

First, may I state that I am, of course, very familiar with the problem of the overlapping districts. We face it constantly and I did attempt last year to try and resolve part of the situation in the Downey County Water District situation. We've gone over the general objectives of the proposed District Reorganization Act of 1965. It is certainly commendable. However, I do have some comments.

One, a primary comment, is the question of the interest of the taxpayers in the assets of the districts which are affected by this proposed bill. The Downey County Water District case, the most recent one, mentioned the fact in passing, and left it up in the air. There is a trust for the benefit of the people in the district that is merged, and they have the right to the assets. This point was not clarified. It was not specified as to how this trust would be maintained by the succeeding entity. The Downey decision did not specify how this trust would be affected by the addition of further property in the superseding agency. The trust does create, however, a true property right, which is a constitutional right on the part of the owners of property within the merged or affected district. This is a problem which I believe should be considered very definitely in the evolution of any legislation of the type which we are considering here today.

CHAIRMAN KNOX: Is it your interpretation of the cases that, if I live in a district and pay taxes for the support of construction of facilities or to pay off bonds for same, that I have a property right in these facilities? Now I understood a property right existed only if I live within the territory.

MISS McELLIGOTT: Apparently that's not true. It goes with the land.

CHAIRMAN KNOX: It goes with the land?

MISS McELLIGOTT: That is correct, at least this is our interpretation.

CHAIRMAN KNOX: Of course, it's a right only to a service. You could never get a distribution pari passu of the service.

MISS McELLIGOTT: No. This is correct.

CHAIRMAN KNOX: You'd never get a share of stock or anything like that. So your property right is only to the service that would be performed under the terms of the district and the service goes with the land.

MISS McELLIGOTT: But cannot the services be assets. This is the peculiar part of that case, and I think it does require clarification. The courts unfortunately did not directly resolve the question. They merely acknowledged the fact and said that it would have to be taken care of.

CHAIRMAN KNOX: The point of my question is that if the right goes with the land and the land is going to be continued to be served by the facility, does it really make any difference which public entity controls the use of the facilities as long as the service is provided? When you get down to cases, is this really relevant to this discussion?

MISS McELLIGOTT: Yes it is because you're talking about an agency which becomes a part of a greater agency. The question is whether the assets can be utilized on the broader base of the larger agency as opposed to the smaller agency which originally held the assets.

CHAIRMAN KNOX: You mean some question as to whether somebody is going to get a free ride ... sewer system or something?

MISS McELLIGOTT: Yes, it goes beyond just that. This is a question that we are concerned about because it is a constitutional question. We are very concerned that the court did not resolve it. So it does have to be considered in this particular instance.

Secondly, a question arises and under the specific aims of the act under the uniform procedures for making changes of organization. Over a period of years the courts have evolved particular requirements concerning due process of law in tax, as opposed to assessment; type of districts. I think that at the very minimum the act should provide for the type of notice and hearing which is required by federal cases for assessment-type districts. The latter require absolute notice. The most recent cases in the federal courts have specifically held that mailed notice must be given if you are affecting boundaries for property in connection with assessment type districts. This is not true with regard to municipal corporations or quasi-municipal corporations. Consequently we have some question about the provisions of the proposed bill which would authorize the local agency formation commissions to hold a hearing with no notice to property owners at all. The notice would be given only to the agencies affected and to the proponents.

You also have a provision allowing for so-called minor boundary changes without a hearing. The question arises as to what is the definition of "minor boundary changes". We now have several provisions in the law which authorize modifications involving less than one acre of land, where you are dealing with some type of confused boundary or something of that nature. However, this requires notice of hearing. Now, I might merely state that there are a great many of the district laws which do not require mailed notice on matters affecting the boundaries.

CHAIRMAN KNOX: We heard a good example of it yesterday with the Sierra Lakes County Water District.

MISS McELLIGOTT: In that instance this was correct. What happened there was that the law does not require mailing of notice to affected property owners in the formation of many districts. Our opinion has been, in view of the federal cases, that mailed notice is essential.

CHAIRMAN KNOX: Well, you represented the Sierra Lakes District.

MISS McELLIGOTT: Correct.

CHAIRMAN KNOX: You came to this conclusion after the formation of the district?

MISS McELLIGOTT: The district became a fact prior to the federal cases, which have enlarged this whole picture. If you remember there was a change of the law, made last session I believe, which authorizes the mailing of notices in instances where there is no requirement in the law. Now, we, and I think most other bond counsels in the state, have been requiring in view of that enabling legislation, that mailed notice be given in all of these instances. There is some question as to whether mailed notice is effective if there is no enabling legislation. So this is where we have a problem. This is something which I think should definitely be considered.

As to the question of simplification of district structure and organization, you are speaking in terms of automatic merger of restablishment of so-called subsidiary districts in the case of a district becoming a part of a city. The question arises concerning some districts acts now on the books which authorize creation of districts even though they are in a city in the first place. Cite in particular the CountyWater District Act. A district, in our interpretation of the law, may be formed wholly within the boundaries of a city despite the Downey case, which only refers to a case of merger

after a district has been included within the boundaries of the city. In this particular instance we have had at least one district formed completely within the boundaries of the City of Woodside. The City of Woodside does not want to undertake the function of supplying water to an area, the city council does not want to undertake the problem. They are the ones who in effect requested the creation of this County Water District within their own boundaries. This is a situation which also must be taken cognizance of in any law which you are evolving.

I have a question with regard to the districts subject to the act. It is not clear from the statement in the outline whether it is intended to have this act supersede the present provisions of the local agency formation commission with regard to annexation. If it is, it should be noted that the present law requires cities to go through the local agency formation commission in any question of annexation. Your outline says only that if there is a proposed merger or establishment of a subsidiary district, cities will, to that extent, be subject to the act.

The other major point which I would like to bring to your attention is the qu question of combining similar but not identical districts. As you heard yesterday, you have some instances where the voters are not registered voters, but are land owners. You have many instances where the vote in a particular district is in relation to assessed valuation. Sometimes it is one vote per landowner. In some instances it might be that a person would have to be a registered voter and a landowner. A question therefore arises in a case of consolidation. Who then could vote? Would it be the registered voters in an area or would there have to be a separate election held in each of the disparate agencies. This is a major problem; we have run into it many times.

One other point. The question was raised concerning the lack of notice of elections. This is one situation certainly worthy of your consideration -- clarifying the right to vote. It isn't a case of land owner vote. Where you have landowners there is a definite question as to whether they have the right to an absentee ballot under the Elections Code. Consequently it is essential that something be done to provide the landowners with at least a right to proxy voting, so that if they are not on their property, they at least have the right to vote. This is the same situation which you find in the Sierra Lakes situation. It is true in many other districts, and consideration should be given to this problem in your proposed legislation.

My final point concerns the proposed grant of authority to the non-elective local agency formation commission to initiate change on its own motion. We are particularly concerned in view of the fact that they are not required to give notice except to the affected agencies and not to the people.

Also, the attitude expressed in this proposed legislation is that the basic findings will be made by the local agency formation commission, not by the local agency involved. It is not clear as to whether it is intended to remove the power from the local district itself or make a determination on the basis of benefit. The statements on page six of the outline seem to say that in the event of an action by the local agency formation commission, the local board or the board of supervisors, must take final proceedings. In the event that there is no majority protest, they must make the order without discretion. Now, this is a very definite change in a legislatively granted right to districts. I don't know whether it is good or whether it is bad. I merely point it out. Particularly in view of the fact that our experience has been, in the case of districts, that you have problems getting people to attend hearings. The question then becomes whether merely by holding a hearing, with no requirement of

finding a benefit, and no discretion being left in the hands of the board of supervisors or board of directors, that radical changes can be brought about by which the peoples rights can be radically affected, merely because they do not know that it is essential that they protest. Under the circumstances, I feel that it is essential that clarification be made of these provisions so as to assure at least that a requirement of finding of benefit be left with the agency which is to have this so-called majority protest hearing.

CHAIRMAN KNOX: We tussled with that problem in the last session in connection with recreation districts. The district board itself decides whether or not it's going to be affected. The district board has a vested interest. A lot of them like to be commissioners; a lot of them feel that this district that they have served for many years is the only way to do this job. Sometimes there is an attorney involved, who is getting a fee every month and his interest is primarily in maintenance of the district. We're concerned that sometimes this interest in the maintenance of the district transcends public interest. That's the problem that we have. If we give the district board the total veto of any possible change in district organization we might as well not have the bill at all in my opinion.

MISS McELLIGOTT: There is definitely a problem of individuals in office wishing to maintain themselves. There is also the problem of people once in office wishing to enlarge their office. This is a common thing; we face it all the time. However, it still does not say that you have to assume automatically that there is going to be this case.

CHAIRMAN KNOX: Yes, but you're assuming that the local agency formation commission is going to be capricious. Incidentally, it is an elected group in the

sense that it's composed of two city officers who are elected by their cities, and two county officers who are elected by their superviosrial district.

MISS McELLIGOTT: Correct, but may I inquire of you where is the right of recall on the part of the people?

CHAIRMAN KNOX: You mean because of capricious action? In that instance the people have the right to appeal to the courts on the grounds of abuse of discretion.

MISS McELLIGOTT: That is correct. They absolutely have the right of appeal to the court; you cannot deprive them of that. However, that right of appeal to the court is sometimes a very difficult thing. People have wanted local control over elected officials, because election is a darn sight easier than appeal to the court if you are dissatisfied. The problem with the local agency formation commission is that there is no direct voter control of that agency.

I would like to summarize that, in the event that such a change of approach is made as to put the majority of the power into the hands of the local agency formation commission, in order to protect the constitutional rights, I very strongly recommend that the law provide absolutely for mailed notice to all property owners within the affected territories. Otherwise, there is a definite question as to whether you would not then run afoul of a federally assured right.

CHAIRMAN KNOX: Mr. Burgener has a question.

MR. BURGENER: Well, Mr. Chairman, this is not necessarily a question for Miss McElligott, but for anyone who might want to comment on it. Under the proposed legislation or even now, can a situation occur in which you have a special district totally within the city?

CHAIRMAN KNOX: Mr. Hamilton, do you want to come up for a second? I have a couple of questions I wanted to ask you anyway.

MR. BURGENER: You have a special district totally within a city. It gets issolved and now becomes part of the city. Therefore, the costs of providing the services re now on the general tax base of the entire city. Can it be that a service is being rendered hat is unique to the district and not generally enjoyed by the rest of the city? What appens?

CHAIRMAN KNOX: We'll let Mr. Hamilton answer that.

MR. HAMILTON: It would be possible, Mr. Burgener. I don't know of an ctual case, but I think I can give you an illustration. Let us assume a city, one portion f which is served by a private water utility, the other half of which is served by a county ater district. With the continued growth of the city by annexation, the entire county ater district could be annexed within the city....It is conceivable that the city would ot have its own city water works or would not even desire to have one. So it's conceivable in this situation that the city might not desire a merger.

MR. BURGENER: Suppose we have a district that has a complete sewer ystem. It finds itself within the boundaries of a city that for some reason is on septic anks and cesspools. It may not be conceivable, but it could happen. Now can we transfer the cost of the sewer system to all the property owners all over town that are on septic tanks and cesspools?

MR. HAMILTON: That's what happens now Mr. Burgener. When one hundred percent of the sanitary district is included within the boundaries of the city hat sanitary district's gone; and all its facilities and all of its liabilities become owned by the city and it is the obligation of the city to provide the sewer service within that area.

CHAIRMAN KNOX: That's the root of the question I wanted to ask you, Mr. Hamilton. I would like your comments on this free ride question which Miss McElligott brought up.

MR. HAMILTON: There is a possibility of a free ride situation, and that's why it seems to me that it's not desirable to have this automatic merger which now occurs.

MR. BURGENER: What are you doing in the act about that, just keeping it from being automatic?

MR. HAMILTON: There is no requirement in the act that the merger occur when you get the 100% overlap. There is authorization either for a merger to be made, or for a subsidiary district to be established, or for nothing to be done -- for the status quo to be maintained.

MR. LANTERMAN: Take, for example, a city that charges an annexation fee per acre. The area that has this facility is paying the city for the so-called benefits of being annexed to the city with its physical plant. The rest of the city is getting, in this instance, a special benefit from the area that is being brought in, while the people who are being annexed are paying an annexation fee for their special benefits that are derived by being annexed to the city. Actually, it's conceivable when the city does not charge an annexation fee that there fair exchange in this absorption -- district facilities for city facilities. But, when an annexation fee is paid, that concept would be almost precluded in the case of a merged district whose assets are absorbed by the city, wouldn't it?

MR. HAMILTON: This is somewhat of a nebulous area. Possibly it could be reduced to more concrete examples which might make it clear. Take the situation of a sanitary district lying wholly outside the boundaries of a city. Subsequently the entire territory of that sanitary district is annexed to the City of Los Angeles which does make a $400 per acre sewer charge for annexed territory. Now, it is your question

whether the city of Los Angeles should acquire the sanitary district's assets under the merger or whether the sanitary district pay the $400 sewer charge to the City of Los Angeles?

MR. LANTERMAN: I would question if it is whether the city has a right to make that charge acquiring a sewerage unit which is up to standard and has been put in according to county engineering standards. The instance I have in mind is a flat charge not necessarily attributable to a sewage charge, but rather the capital plant of the city -- for city facilities, water system, city hall, improvements, parks and so on to which the people of the city have contributed, through taxes and by bond support. The area annexing gets a free ride on those improvements.

MR. HAMILTON: It would seem here, Mr. Lanterman, that the alternatives of merger or subsidiary district suggested in the outline might prevent that inequity.

In this matter of equity, let us assume that an entire sanitary district or an entire county water district, is annexed to the city and the city seeks to impose such a charge. I would assume the city would also, after the annexation, like to see the existence of a district terminated. Under the act the merger would be subject to preliminary scrutiny of the local agency formation commission. If the local agency formation commission felt that the merger was unwise or inequitable, it would disapprove it, so the city would be prevented from exacting two pounds of flesh.

MR. LANTERMAN: Now, in the instance you cite is it possible that the county water district's standards of pipes, pressure, reservoir supplies, etc., might not be up to the standards the city requires? Therefore the city would charge an assessment to this area they've taken in and dissolved. The city would be acquiring

facilities although these facilities might be of lesser standard than theirs, and would have to be replaced. The district in effect would be charged twice for the provision of sewerage facilities.

MR. HAMILTON: Well, all I can say, Mr. Lanterman, is that the district does not necessarily have to pay. The local agency formation commission could control this comewhat.

MR. LANTERMAN: But, you see what we would have then is the local agency formation commission virtually vetoing the city council.

MR. VENEMAN: I think you mentioned a situation in Woodside where the city council did not want to accept the responsibility of providing water service, so they established a separate district. Did this occur after the 1963 legislation establishing the local agency formation commission?

MISS McELLIGOTT: No, this was long before; this district has been in existence now for about 8 years.

MR. VENEMAN: Can you conceive of a situation where a city council would be unwilling to assume such a responsibility at the present time?

MISS McELLIGOTT: Many cases. I can give you a specific example if you'd like.

MR. VENEMAN: The local agency formation commission has the power to recommend such an annexation, and, of course, final action will be taken by the city council. Do you see this as a weakness of the local agency formation commission that in spite of its review and study such a situation could arise?

MISS McELLIGOTT: I think there is a weakness as the local agency formation commission now stands, in that there is an absolute one-year bar for the

originally proposed action. There is no way of getting around that one-year bar in the present law. If for one reason or another the local agency formation commission makes a recommendation which is different from the original proposed, the city may say "no, we don't want it", and this would leave the local agency formation commission standing there because a city refuses to take over water functions and does not want to have this particular area taken into the city. But the local agency formation commission can't backtrack to the original proposal because it's barred for a full year.

MR. VENEMAN: Would you recommend a change? This was what I was getting at.

MISS McELLIGOTT: Oh, yes, definitely. I recommended that at the time of the original legislation, because the law does bind the hands of even the local agency formation commission.

MR. VENEMAN: That's assuming that the city is unable to meet the conditions that the commission attaches.

CHAIRMAN KNOX: What this points up is a reversal in the situation that Assemblyman Lanterman has described where the local agency formation commission has power over the council. There is a reverse situation where they can in fact preclude the dissolution of the district government.

MISS McELLIGOTT: I think this is true, very definitely. I might make one comment. In several instances we have found counties which do not wish to undertake certain operating functions, and consequently they will not use the county service area at all. Instead, they insist upon being relieved of all of these functions by the formation of districts with an independent board of directors. An example of this is the Brooktrails Resort Improvement District which was mentioned yesterday. That particular district was formed because the Mendocino County Board of Supervisors

didn't want the basic function of operating it. The situation can arise where the local agency formation commission feels that it should be a proper function of the county to have a wholly controlled district. The county may not want to do it that way. Again, as Mr. Veneman said, the local agency formation commission has nothing that they can do under those circumstances.

MR. WILLOUGHBY: One very brief question. Is it accurate to summarize your presentation by saying that in spite of the procedural cautions that you have given -- such as appropriate notice to property owners, the warning about the implications of the Downey case, etc -- you agree and express support for the procedures that are contained in the outline with the sole substantive exception that you disagree with the provision regarding the power of a district board to veto an election?

MISS McELLIGOTT: I am afraid I can't give you such a generally broad response as you are requesting, Mr. Willoughby. Let me say this. I understand and I can support the idea of simplifying procedure. I cannot, however, support anything which removes the rights of the people to choose by whom they will be governed, even though such government bay be inefficient.

CHAIRMAN KNOX: 9.2% of them participate in an election. They don't know what the district is and they don't know who serves on the board.

MISS McELLIGOTT: I agree with you Mr. Knox, and that's one thing I have recommended many times before -- that there be better notice -- and this has not been done. I don't think it's all black and white.

CHAIRMAN KNOX: No, I certainly agree with you on that. Thank you very much, Miss McElligott. Our next witness this morning will be Mr. Robert Moock of the firm of McCormick, Moock and McCormick.

MR. MOOCK: My name is Robert E. Moock and I am an attorney at law with offices at 122 West Willow Street, Visalia, California.

I am here today representing the Lindsay-Strathmore Irrigation District, Lindmore Irrigation District, Saucelito Irrigation District and Tea Pot Dome Water District of the County of Tulare and the Orange Cove Irrigation District of the counties of Fresno and Tulare.

My clients are all active districts serving primarily agricultural water to the lands within the district. One district also serves domestic water to its water users. These districts range in size from approximately 3,000 acres to about 25,000 acres.

The Board of Directors of these districts have examined and considered the rather general outline furnished to us by the staff of the committee and found portions of the proposed legislation very distasteful. We are not certain just what ills the proposed legislation is designed to cure, but whatever the illness, we don't have it, and we don't wish to be subjected to major surgery without some objective symptoms of major illness.

We might make the comment at the start that in our area of California the relationship between the special districts and the cities creates no insurmountable problems, and the attitude is one of friendly cooperation rather than conflict. We make this statement because we understand that in some areas of California this is not true.

We do not quarrel with the theory of merger of special districts into cities when the city encompasses the entire district. It is our belief that the special district furnishing one or more urban services is a sensible, practical necessity. It is the genesis of a city. The natural end result is the incorporation of the city or the annexation of the district to an existing city.

Our general feeling in regard to the proposed legislation is one of opposition to any limitation upon the present right of citizens of the State of California to group together in order to organize special districts so as to furnish needed services to the group. In general we defend the right of persons to join together in special districts to govern their own affairs and we oppose the principle of limiting operation of these districts after formation by any person, body or agency which is not elected by the electorate of the district. The right to organize special districts is a valuable personal right which has been given to the people by the legislature and we see no good reason for limiting that right in the manner proposed. We do not believe that an agency or an appointive body such as a local agency formation commission is better able to determine the destiny of a special district than the duly qualified body elected by the voters in the districts.

My clients object to the following specific provisions of the proposed legislation set forth in the outline:

1. We do not believe that an appointive body should have the right to review proposed annexations, exclusions, minor boundary changes, dissolutions,

consolidations or reorganizations of special districts. We believe that the internal affairs of a special district are the primary concern of the electorate of the district and the present provisions of law are adequate to protect whatever interest the public might have in the operation of the district. We see no justification for giving to persons unfamiliar with the operations of a district and completely disinterested in the affairs of the district, the right to determine for instance, whether five acres should or should not be included in the district.

2. We do not believe that special districts serving agricultural water are in the same category as special districts providing urban or other services and that all special districts should not be lumped together in considering this proposed legislation. Districts serving agricultural water have many problems peculiar to agriculture. It appears that all types of action covered by the act will be subjected to review by the local agency formation commission in the respective counties. The local agency formation commissions are now constituted to not seem to be designed to adequately understand or solve the problems of an agricultural district. We would suggest that irrigation districts and California Water Districts be eliminated from the purview of the act.

3. We are opposed to any increase in the power of the local agency formation commission and particularly the power to impose terms and conditions upon the districts in approving or disapproving any of the various types of action reviewed by the commission. Such unlimited power would enable such a commission to completely usurp the authority of the governing body of the special district to regulate and govern the internal affairs of the district.

4. We are inalterably opposed to the proposed legislation insofar as it would allow the local agency formation commission to initiate proposals for a change of organization or "reorganization" as the term is used in the outline. Such power would give the commission unconscionable and unlimited power to dictate the policy and actions of a governing body of a special district and completely disenfranchise the electorate of the district. We would suggest that the initiation of proceedings for a change of organization or reorganization be limited to the electorate of the district or to the Board of Supervisors.

5. It appears from the outline that once the commission has acted then the governing body of a local agency has the mandatory duty to follow the recommendations of the commission unless the majority of the electorate files a written protest. This has the practical effect of making the recommendation of the commission final and leaves no discretion in the governing body of the district. We believe that there is no justification for giving such power to any body not responsible to the electors of the district.

In addition, this section of the outline on proceedings by local bodies involves some substantial items of expense for either the local agencies or the counties involved. Someone must pay the cost whenever notice is sent to the electorate of a district or when an election is called. Who is going to pay these expenses? If the districts must pay then you have a situation where someone other than the representatives of the district is incurring expenses for the district. Is this the American way of running government?

6. As stated previously, we do not oppose the principle of merger but we see little value in the formation of subsidiary districts as proposed in the outline. In fact, this too seems contrary to our democratic system because you are merely transferring the management of 100% of the district to representatives of 80% of the district. Who represents the other 20%?

The matter is not at all analogous to the situation where the Board of Supervisors acts as the governing body of a special district. In such an instance no portion of the district is left without representation.

7. We oppose the rather vague proposal in regard to the initiation of proceedings for "reorganization". This proposal is based on the premise that the local agency formation commission is equipped to make a determination that two or more special districts should be consolidated even though the electorate of said districts might oppose the change. We believe that any action for the consolidation of districts should be instituted by the electorate of the districts.

Conclusion:

While it may seem to you that we are adopting a negative approach in our comments concerning this proposed legislation we find we have no alternative. It is obvious that we find the basic premise underlying the legislation highly objectionable. We cannot acquiesce to a proposal which seems to us to be an unnecessary, unwarranted and unAmerican inroad upon the fundamental powers of the districts we represent.

If you have problems with the overlapping of districts, with the continued existence of inactive districts or things of this nature, it seems to us that these problems could be solved without any infringement on the power of special districts to manage their own affairs.

CHAIRMAN KNOX: Thank you Mr. Moock. I would like to say that I don't think this proposal is un-American. I think it's pretty American to be worried about the welfare of the property taxpayer in this state. He is being taxed by well over 3300 separate autonomous government agencies at the present time. I don't know anything about the districts you represent. No doubt they are excellent districts, doing their job effectively; but there are some in this state which are not, and I think it's up to the Legislature to try to do something about it.

MR. MOOCK: I'd like to say I haven't heard anyone at this hearing yet complain about the taxation or the operation of any of these special districts. Maybe there are people who have complained, but we don't hear any in our area. I had thought that perhaps I might here some today, but not yet.

CHAIRMAN KNOX: Well, you hear a lot of them around when people sometimes find themselves living in as many as 15 to 25 separate districts which are taxing them. They don't know when the elections are held; they don't know who's on the board; they don't know what the taxes are for in some cases and nobody ever bothers to explain it to them. We propose to explain it to them. That's the problem. Now, again, I'm not commenting on your clients because I don't know anything about their affairs. I have no reason to assume other than that they are very efficient in doing their job, but we have a lot of complaints on others. I don't take umbrage at your criticism of the act; that's what we asked you to come here for, but I do take umbrage at your calling it unwarranted, unnecessary and un-American. I think you're wrong in trying to label as "un-American" anything you may disagree with.

Thank you for coming Mr. Moock. Any questions.

Our last witness this morning is Mr. Frederick Bold from the City of Richmond, a partner in the firm of Carson, Collins, Gordon and Bold.

MR. BOLD: Mr. Chairman, and members of the committee, my name is Frederick Bold, Jr., and I am an attorney. I am appearing before you today on behalf of the Contra Costa, Oakley and Southwest Contra Costa County Water Districts, all within this county, and the North Marin County Water District.

These organizations are all affiliated with the Irrigation Districts Association, and I hasten to comment that it is not to be inferred from my presentation that we take issue with the position of the Irrigation Districts Association. On the contrary, we do not. However, we feel that the matter that this committee is concerned with is of such great importance that there are two or three points that we want specially and particularly to emphasize.

We feel that anyone concerned with the business of local government in California is aware of the fact that there are problems that cry out for solution. We submit that the objectives of the Reorganization Act of 1965 are laudable. There are, on the other hand, certain dangers that are inherent in it which we think merit your consideration. That's why I am here.

Let me say that the districts that I am representing generally ally themselves with the outline that has been presented to the committee rather than with the position that was taken by the League of California Cities to which position we are emphatically and strenuously opposed.

The following specific proposals in the committee's outline we believe are essential to good government, and must be included in any act:

(1) That the judicially developed doctrine of "automatic merger" be abolished, and

(2) That dissolution (other than for nonuse of corporate powers), consolidation, merger or reorganization may be effected only after the approval of a majority of the voters in all of the districts involved.

We respectfully call to the committee's attention two matters of equal importance which are not adequately covered in the outline and which we strongly urge be incorporated:

(1) To require that annexations of inhabited territory must be confirmed by the voters will, in certain instances, involve a needless expenditure of time and money. No election should be required when the organic law of the district requires, as does the County Water District Law, that annexations of inhabited territory may be accomplished only by petitions signed by either (1) a majority in number of the voters residing within the annexed land, or (2) a majority in number of the owners of each separate parcel in any tract of land proposed to be annexed who are also the owners of more than half of the total acreage of the tract. (Water Code 32402). Actually this provision affords greater protection to the public than an election, since a majority of all voters or landowners must affirmatively consent to annexation rather than a simple majority of those voting at a local election.

(2) We think it is of utmost importance that there be no controlled merger or establishment of a subsidiary district when a local district is included in a city unless such action is confirmed by the voters of the district.

The question of who originiates the proposal is not of overwhelming importance -- whether a district board which may be reluctant to act because of the preservation of its own little empire or whether a board of supervisors or a local agency annexation commission. But before a merger is accomplished, the voters ought to be given an opportunity to express themselves. What we are particularly afraid of is that there may be an ulterior motive for mergers. There may be something other than the laudable objective of providing efficient government at the least cost to the public. There may be another motive for merger, and that is to grab some juicy plumb, some profit making local district and put it into a larger agency.

It's possible, for example to take the profit out of water to pay the firemen. You can't criticize such a move from the standpoint of the city. It might be good government, I mean it might be the way to manage the financial affairs of a municipal corporation; but if the people created their own local government and it's operating to their satisfaction, don't cause its extinguishment without letting them vote on it.

And if you say that dissolution shall require a vote, we say merger should also; because although a merger may not be the cessation of operation, it certainly is the extinguishment of a corporate entity.

Mr. Chairman, you put a question to Miss McElligott upon which I would like to comment briefly. Your question had to do with the property rights of a district, and the difference it makes if merger is effected. I would like to

have you envision a local district, let's say a water district that's serving five square miles north of a highway. It bonds itself and provides a completely adequate source of supply, treatment, storage and distribution of water. Then a city is formed. It not only completely engulfs the five miles north of the highway, but another five miles south of the highway. Now, the original territory of the district had bonded itself to provide an adequate and properly operating governmental service. But if that area becomes merged into a city-wide water works then future financing, which will only provide facilities on the other side of the highway will represent a cost which the city would spread over the whole territory. Now, this is what I envision the committee has in mind when they are talking about a controlled merger. These are lawful things. These reorganizations and mergers should be completed only when the local people have given it majority support at the polls.

CHAIRMAN KNOX: Thank you, Mr. Bold. Any questions?

Thank you very kindly. We will recess for lunch until 2:00 o'clock.

AFTERNOON SESSION

CHAIRMAN KNOX: The committee will come to order. Our first witness this afternoon is Mr. Paul Soltow, who is representing the California Sanitary and Sanitation Districts Association and is also the Manager and Chief Engineer of the San Pablo Sanitary District in the 11th Assembly District, which I have the honor to represent.

MR. SOLTOW: I am Paul C. Soltow, Jr., Engineering-Manager of the San Pablo Sanitary District and official representative of the California Sanitary and Sanitation Districts Association. The California Sanitary and Sanitation Districts Association is an organization representing 43 member agencies including 36 sanitary districts, 5 county sanitation districts, a public utility district and a community services district. The total assessed valuation of the association membership is in excess of $1,400,000.00.

I would like to take this opportunity to make some introductory remarks about sanitary and sanitation districts and the other districts of the Association. These districts are active public bodies engaged in the 24-hour per day function of protecting the public health and welfare through collection and disposal of sewage. They protect the priceless resource of California water through control of pollution. The Districts serve important metropolitan regions and have been doing so for a great number of years -- in some cases over a half century. The existence of these districts is vital for the continued growth and protection of hundreds of communities throughout the state.

I have reviewed the transcript of the January 16, 1964 hearing of this committee at which the reasons for the establishment of uniform consolidation, dissolution and withdrawal procedures were debated at length. I am assuming that this committee has given full weight to the testimony given at that time by special district advocates. Suffice it to say that the Association endorses those viewpoints expressed at the January hearing regarding the continued and worthwhile role of special districts in California government and the adequacy of existing district laws.

It is, I believe, the purpose of this hearing to consider testimony which specificially relates to the District Reorganization Act of 1965, referred to as the "Act" which is more fully described in the outline furnished by the committee consultant dated September 1, 1964.

I would like to state for the record that the Association is opposed to the Act in its present form. We are convinced that the existing laws, particularly those of the Health and Safety Code relating to sanitary districts, are serving the people of California well as is proven by the test of time. The proposed Act, by comparison, represents unproven concepts and does not reflect the body of thought represented in years of statutory amendment and change in district statutes.

Due to the press of time, I shall only briefly discuss the following aspects of the Act which I feel are not satisfactory:

1. Annexation -- Health and Safety Code Sections 6870 to 6881 provide for an inexpensive, efficient and logical means of effecting annexations. Existing procedures permit annexation to be held without an election based upon petitions from property owners representing 75% of the assessed valuation involved. The code provides for reasonable public notice and has served districts on hundreds of occasions. In the San Pablo Sanitary District, 157 annexations have been processed in the last 20 years. The purpose, of course, of the simplified annexation procedure is to enable sanitary districts to easily provide service to people who need it.

   The proposed law will require posting and mailed notices to property owners. Moreover, if the lands are inhabited special elections must be held -- a needless expense when, as in many cases, all or a majority of the property owners within an area have already indicated their willingness to annex by signing petitions.

A suggestion would be to expand "minor boundary changes" provisions of the proposed Act to include the sanitary district annexation procedure set forth in Sections 6870 -- 6881 of the Health and Safety Code.

2. Liberalization of Initiation of Proceedings -- several dangers of abuse would be present in the sections of the Act which would permit consolidation, dissolution and withdrawal proceedings to be initiated by outside parties or small groups. It is possible for a small majority on the local agency formation commission to arbitrarily force a reorganization of special districts regardless of the wishes or feelings of the duly elected representatives of the people living and paying taxes within those districts. It is possible, for example, for small groups of dissident taxpayers to harass special districts at times of important public decisions like bond elections and delay construction of essential work. It is possible, for example, for years of master planning and expenditure for works to be wasted through dismemberment of vital portions of districts under exclusion proceedings. It is possible, for example, for 80% of the area of a district to be merged into a city and for the city's council to be the ex officio board of a subsidiary district serving 20% outside remainder, thus providing true "taxation without representation". Since there are no provisions for equitable disposition of assets, it is possible, for example, that financially solvent districts will be swallowed by less solvent neighbors as a means of improving shaky financial conditions.

3. Effective Results --It is possible that, the Act has been rewritten, enacted and been in effect for a number of years that local governmental conditions may not be materially different than they are now because of the inability of other forms of local government to provide service.

I wish to close by emphasing again that, while the Association is in accord with the stated goals and objectives of the Act, it is opposed to it in its present form. I have cited for your consideration areas of improvement and concern. In my opinion, the existing law meets our needs and that little reason exists for change.

I would like to thank the committee for giving me this opportunity to speak today. I would especially like to thank Chairman John Knox and Committee Consultant, Tom Willoughby for the kind assistance they have given my district and the Association in furnishing information on this Act and on many other matters.

CHAIRMAN KNOX: Thank you very much, Mr. Soltow. Is there any questions? I appreciate your coming. Mr. Robert Angle of Goleta Sanitary District.

MR. ANGLE: My name is Robert Antle from Cavalletto, Webster, Mullen and McCaughey, attorneys in Santa Barbara. I don't have a written presentation with

me, but will submit one as soon as I return to Santa Barbara.

I would like to address my remarks to two subjects. One relates to sanitary districts.

We represent Goleta Sanitary District and all of the annexation to that district have been by way of petition by 75% of the assessed valuation without an election. This procedure has proved fair, and it has been inexpensive. We would add our words to those of Mr. Soltow that to require mandatory elections can result in many cases, in an unnecessary expense of an election. If the owners of 75% of the assessed valuation want to get into the district, then I submit that since they are the ones who are going to foot the bill, they should be allowed in.

The other problem I would like to address myself to is that of the so-called "defensive districts".

As an example of what I am talking about, we represent the owners of a couple of pieces of property in a water district in Ventura. The water district board of directors has not obtained any water. They have no water facilities -- no wells, no contracts for water. The district has been in existence for about 6 years. The area is a prime target for subdividers. The purpose of this district has been to postpone subdivision.

We represent the owners of approximately 25% of the area. These owners want to be excluded in order to get water from a neighboring water district. This is a common problem. Unfortunately, under the existing provisions of the Municipal Water District Act of 1911, there are no specific criteria for determining whether or not to exclude territory. Some of the other acts provide for benefits. In this particular act there are no specific criteria. Our clients' petition for exclusion was turned down. The matter is now in litigation. The attorneys are taking the position that the district

has complete, arbitrary and abolute discretion to turn down the exclusion. There is no reference to the purpose of the district. Members of the board of directors made it quite clear that the purpose was to postpone subdivision of our clients' property. This is obviously a misuse of the powers.

Certainly one of the objectives of this act, as I see it, is to try to correct this situation. I note that there is a provision for dissolution where corporate powers are not being used. I sincerely hope that the text of the act would be written in such a way that this can be an effective technique -- that dissolution by the board of supervisors can be used as an effective technique to rectify the situation that I speak of.

One thing, however, is that a board of supervisors has an option to dissolve a district subject to an election. If the election is to be held by the property owners and the voters within the area to be excluded or detached, I would say this is fine. However, in our particular case, if you submitted the proposition to the voters within the entire existing district, who numerically at least are opposed to any subdivision, the election would nullify the dissolution proceedings.

Also, there may well be situations where dissolution would not be a proper remedy, and where detachment would be a proper remedy. There, again, we have the provisions on detachment which call for an election. If it's uninhabited territory, as is the case with our clients, the election is at the option of the board of directors. But, in our situation the board of directors, knowing that the numerical voters and all of the people in the district as a whole would oppose our proposal, would simply kill our detachment proceedings by holding an election within the entire district. Again we strongly recommend in detachment procedures that an election be held only within the area proposed to be detached. As an alternative, we suggest some sort of a procedure for detachment based upon a hearing where evidence is submitted and the

board has to make a finding of either benefit or non-benefit.

We would also recommend something in the Act, if this detachment procedure is modified, to make it clear that any discretion exercised by the board is a matter which can be judicially reviewed.

CHAIRMAN KNOX: Thank you very much. Any questions?

All right, thank you very much, Mr. Angle. We appreciate your coming.

We have two witnesses from the Irrigation Districts Association, Mr. Robert Durbrow, and Mr. Jerome Gilbert.

MR. DURBROW: Chairman Knox, I'll start it and then we will call on Mr. Gilbert, who is actually manager of an operating district, and chariman of our county water district section.

My name is Robert Durbrow, representing the Irrigation Districts Association of California, and we appreciate the opportunity to express our views on the "Outline of a Proposed District Reorganization Act of 1965" which, for brevity, we will refer to in this statement as the outline. I would like to comment on several points and then indicate the reaction of several attorneys and other representatives of districts to the outline.

The preamble of the outline states that the general object of the proposed act "will be to provide a means of assuring that needed local public improvements and services will be furnished by the local agency best able to provide the same with the greatest efficiency and the least cost to the public...". The impression given is that some all-knowing agency outside a district area knows better than the people in the district what those people need, what is the most efficient organization for them, and how it should be financed. There may be occasions when people outside of a district know better than those within the district what is best for the people in the district, but in the vast majority of cases the reverse is true. People within a district may not always choose the most efficient type of organization nor the least costly method of financing improvements, but they have exercised a choice and usually those choices were the logical ones or the ones recommended by experts or the only ones which could do the job at the time. The choices having been made, the people in the district will pay the bill, and by and large the system has worked extremely well. We don't think anyone within or without a district can "know" what would be the most efficient organization or what system of financing would provide improvements at the least cost, so there is a choice based upon judgment, advice, desire and decision by the voters; and the decision by the voters in the element that

gives any entity vitality. What we are trying to say is that we believe the act would be easier to sell if the general object of the proposed act read something like: "to offer opportunities to the voters in district areas to select improved means of providing needed and desired improvements or services and to make provision for orderly growth through consolidation, annexations and dissolutions."

The objective of providing a satisfactory method for the elimination of unnecessary district "overlaps" and for coordinating and simplifying the structures of overlapping district governments is a commendable aim, but it should be pointed out that, because districts overlap, it does not automatically mean that an undesirable situation exists. We have only to point out as an example that within the Contra Costa County Water District, for instance, some five or six smaller county water districts have been formed and have done a commendable job on water services in their communities. The smaller districts do not duplicate the service of the larger district, but supply local and domestic water service in areas where the larger district is primarily an agency for the import of water on a wholesale basis. Some of the smaller county water districts have been merged into cities under the judicial doctrine of automatic merger which the outline indicates would be replaced by provisions of the proposed act.

Under "specific aims" the outline says that all proposals for a change of organization or reorganization will be subject to review by the local agency formation commission, and annexations, detachments or minor boundary changes are included as changes or organization. This is a point on which we hear the most criticism of the Local Agency Formation Commission Act. Attorneys and administrators of districts feel that much of their time and much of the Commission's time is wasted on minor matters which should not have to go before a commission. We believe it would be most helpful to districts and the commissions if minor changes could be made by the districts only by notice to the commission of the change and the intent of the district not to bring it before the commission. Provision could be made that, if the commission took no action within a reasonable time to bring the proposed change before it, the action of the district would stand. The outline indicates that minor boundary changes may be made without notice and hearing or election, but is not clear as to whether such changes would have to go through a form of commission consideration and approval.

Another common criticism of the LAFC Act is that it provides a body of persons often with little or no experience with districts and district services who can delay or stop actions on which time is vital to the successful completion of an action. The outline apparently recognizes this and provides that all proceedings in annexations, detachments and minor boundary changes will be taken by the governing body of the affected district. However, it provides further that, if a proposal is approved "in whole or in part" by the commission, then the governing body of the district must take proceedings leading to the ordering of a change of organization or to its final disapproval. Directors of a district could thus be required to act on parts of a proposal when in their judgment only the entire proposal should be acted upon, or vice versa. The commission should be required to give special weight to the reasoning of the directors in such cases, or the directors should

have some means of appeal. Appeal could be granted by reference to the courts or to the voters in instances where there is disagreement, but it does not seem proper that persons without experience in the special district field should have absolute and final authority in such instances.

We are pleased to see that the outline would provide a more equitable process for the ~~judicially~~ developed doctrine of automatic merger. The retention of the district framework at least until its bonded debt is paid off and until its property has been fairly disposed of, and provision for a vote before final merger with a city, seem to us to be minimum requirements in such instances. We have reservations about the proposal for "subsidiary districts" governed by the city council since this puts persons from outside the district in control of property and assets of the people of the district which are often of considerable value and which have in the past been a temptation for council members to put to uses other than those intended. With major annexations under the control of local agency formation commissions, there does not now seem to be valid reason for immediate elimination of the district framework and board of directors. Since the outline would provide for a vote upon merger, the subsidiary district would appear to be an extra step which is not necessary. If 20% of a district is outside of a city, there is a real legal question about the propriety of turning the district over to the city, particularly when, as is often the case, the valuable water producing facilities of the district are located in the territory outside the city. It should be pointed out that this is not the same as giving the county supervisors control of a district in the county area, but city councils have no governing authority over the area outside of the city.

As a final point I want to emphasize that, while the outline would propose to set up uniform procedures and then repeal all such similar procedures in the various district acts, we are certain that no uniform procedure can take care of every contingency at its first writing. We would urge, therefore, that the provisions in the district acts be left on the books until the new act becomes useable and successful. As a supplemental act, at first it can be most useful in some of the areas not now adequately covered by law, and the district acts can still be used with less effort and loss of time for some standard practices. I assume that provisions would be made to bring such practices as are necessary under the local agency formation act even if the provisions in the district acts are retained.

In summary, we have suggested:

1. That the general object of the proposed district reorganization act be changed to indicate that it will be a helpful means of orderly growth and acceptable change by the electors of the district or districts involved.

2. That the impression be corrected that all district overlaps are per se bad and must be eliminated.

3. That minor changes in districts be authorized without time consuming and costly reference to the commissions, with notice to the commission of such actions as a substitute -- reserving to the commission the power to call up for hearing any change it believes to have more than minor effect.

4. That, where commissions would rule on district proposals, the recommendation of the district governing body should be given substantial weight, and that appeal of decisions to the courts or to the voters be provided.

5. That, in the elimination of automatic merger, and substitution of an election therefore, consideration be given to retention of the district framework and board until properties are equitably disposed of.

6. That the existing district provisions be retained rather than repealed during a period of trial of the new uniform procedures.

Here are some comments from some of our members about the "Outline of a Proposed District Reorganization Act of 1965":

Excerpt from letter of Robert E. Moock, Attorney at Law, with the firm of McCormick, Moock & McCormick, Visalia, California:

Re the Proposed District Reorganization Act of 1965, our districts are certainly interested in this proposed legislation.

We are not eager to see the authority and jurisdiction of this Local Agency Formation Commission expanded. We are particularly concerned with the broad powers to be given this appointive body over the duly elected legislative bodies of the individual districts. To us, it is a most undesirable piece of legislation.

As you know, our firm has actually amicably merged two districts with cities and we are not opposed to the principle of merger per se. However, we can see no justifiable reason in our area for granting any body or commission jurisdiction over annexations, exclusions, reorganizations, dissolutions, etc., of special districts. The electorate of these districts are perfectly capable of handling their own affairs.

Excerpt from letter of Thomas M. Jenkins, Attorney at Law, with the firm of Schofield, Hanson, Bridgett, Marcus & Jenkins, San Francisco, California:

I always find it difficult to carefully analyze a broad statement of this sort without actually looking at the language of the Act. In general, however, I assume from the statement of objectives that the overall policy of eliminating duplication is valid. I am somewhat concerned with the proposal which gives such additional powers to the local agency formation commissions.

In my earlier comments to you, I indicated that there was to me a void in the present law as it relates to annexation. I am unable to determine what the power of the local district board is in the normal situation. If the local agency formation commission approves annexation of territory, does the local board have any power to alter the boundaries which have been set? In other words, are the

general provisions in most of the statutes which provide for public hearing, taking of evidence, listening to objections, and a determination as to whether or not the annexation is in the best interests of both the land and the people of the district still valid proceedings? Is the only function left by the board one of "yes" or "no" on an entire area?

I have appeared a number of times before Local Agency Formation Commissions. The kind of evidence they take, and in fact, the only kind that they are capable of taking, since they certainly cannot be aware of the internal problems of each local district, is very general. I therefore am somewhat at a loss to understand how they are to act not only in annexation matters, but now in much more internal affairs, such as changes in organization.

This is not to say that the object is not good. But at the moment, I see only more difficulties under the proposal as submitted.

I am in favor of the provisions relating to merger. These provide for a vote in all instances, and I think this is a fair means of handling this kind of problem.

Excerpt from letter of Thomas H. White, Attorney at Law, with the firm of Clayson, Stark, Rothrock & Mann, Corona, California:

You have asked us if we have any comments on the "Proposed District Reorganization Act of 1965". Set forth below are some of our criticisms. However, when the legislation is in bill form and specific wording is set forth, more meaningful comment can be made.

Generally, the outlined legislation gives altogether too much power and responsibility to a group which may not be best equipped to perform the functions specified. This is especially true in the application of the legislation to public districts. Public districts have virtually no representation on the Local Agency Formation Commission. Only city and county is represented. This places a district in the position of having to beg for its bread from a group that has traditionally been somewhat at the opposite end of the table. For example, the local agency formation commission in San Diego County is made up of two members of the Board of Supervisors, the Mayor of La Mesa, the Mayor of Oceanside, and a retired naval officer residing in the City of San Diego. With all the other activities these people are engaged in, and considering the interests they represent, it is hard to see how much a group, composed almost entirely of people from the southern end of the county, can effectively investigate and understand the problems of the many small districts in the extreme northern part of the county.

There is no provision in the outline for the disposition of a matter in the event the Commission disapproves the requested change. There should be some procedure set up to override a disapproval by the Commission, especially on "mandatory" petitions. This perhaps could be provided for by allowing the district to hold an election as to the proposal. Otherwise, if a district is at odds with the cities and the county, it perhaps could never effect a change in organization.

It is doubtful that the commission is sufficiently equipped in personnel to beneficially initiate changes in the organization of districts. Since the commission is made up of representatives from the county and the cities only, it will generally have very little experience in the problems of public districts. Different districts are formed for different purposes, and without any experience in such matters it is hard to envision how a commission could help a public district. Perhaps some analysis of the performance to date of these newly created commissions would be in order.

The outlined legislation calls for dissolution for non-use of corporate powers solely in the discretion of the Board of Supervisors after approval by the commission. This definitely should not be allowed. This is perhaps the most repugnant part of the proposed legislation. Public districts are formed by and for the people within the district. They are formed for various purposes, some of which are the maintenance of the status quo, without any other activity. If the district is to be dissolved for any reason, the vote of the people who created the district should be obtained. It would be close to impossible to set forth a definition of what is and what is not the use of corporate powers sufficient to avoid dissolution under the proposed act.

The proposed act could be beneficial to districts regarding consolidation of unlike-districts provided the procedure regarding elections is outlined properly. As set forth, the act calls for the approval of any consolidation by the voters within each district. Generally speaking, this is very desirable. However, the specific legislation should be worded so as to provide that consolidation will not be effected without the approval of each district individually. For instance, suppose a consolidation is proposed between two districts, one of which has ten voters and the other of which has two hundred voters. If you count the total votes of the two districts, the smaller district is virtually without vote. The approval of each district separately should be required.

Procedures should also be set up as to the disposition of property held by a district in the event of consolidation, merger, or dissolution of that district. At the present time, if two districts perform similar functions and overlap each other, on the dissolution of one district the property and assets generally revert to the county. Property and assets should revert to the district remaining after the dissolution, consolidation or merger, as the people of that area, generally speaking, would have been the ones that provided the funds for the purchase of those assets. Whether such provisions should be incorporated in the laws now applicable to the specific types of districts involved should also be studied.

This letter has been somewhat lengthy, but we feel that these points and the disposition of them are vital to those public districts which we represent. Again, the presence of specific proposed language will facilitate more definitive comment.

Telephone remarks of Mr. Charles Price of Lakeside, California, Chairman of the California Water Districts Section of Irrigation Districts Association of California:

We are in opposition to parts of the proposed act increasing powers of local agency commissions.

While we recognize that local agency formation commissions may serve a very useful purpose as constituted under existing laws, we do not feel that they should be given power to initiate changes in or reorganization of special districts. This would take control away from local districts, and would be one more step toward central government.

Problems of service and future planning are known only by local districts, while the Formation Commission committees have no concept of them.

This statement is made on behalf of the following districts upon the action of their boards:

Rio San Diego Municipal Water District
Lakeside Irrigation District
Lakeside Farms Water District
Riverview Water District
Santee County Water District.

This statement is also made on behalf of the Water Agencies Association of San Diego County without the action of its board, but with the consent of a large group of individuals contacted.

Excerpt from letter of Maurice Sherrill, Attorney at Law, of the firm of Redwine and Sherrill, Riverside, California, speaking as Chairman of the Municipal Water Districts Section of Irrigation Districts Association of California:

I have been unable to analyze the proposed district reorganization act in so short a time. We in Southern California have a very real interest in the proposal and believe that many of the problem areas are down here. Would you please suggest to the Committee that a meeting on this subject in the southern part of the State might be appropriate, perhaps when a draft of the proposed legislation has been prepared.

Excerpt from letter of Robert Jones, Attorney at Law, with the firm of Price, Postel and Parma, Santa Barbara, California:

I have had only a limited opportunity to read the material which you sent me and am not able at this time to make any suggestions.

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Because time was short for study of this very complex and comprehensive outline, and because most of our attorneys and advisors react more positively to the actual legislative language, we are hopeful that, as a result of this meeting, the Committee will soon be able to prepare an actual bill draft which may be studied in

some detail before its submission to the Legislature. This will mean some pretty fast work by the Committee staff and advisors, but could also mean that you would have a much better, less controversial, bill to submit to the Legislature.

CHAIRMAN KNOX: Any questions? Thank you very much. Mr. Gilbert.

MR. GILBERT: Thank you Mr. Chairman. My name is John B. Gilbert. I am chairman of the County Water District Section of the IDA, and Manager of the North Marin County Water District.

PROPOSED DISTRICT REORGANIZATION ACT OF 1965

Generally speaking, the activities of the local agency formation and annexation commissions have resulted in an improvement in the development of local governmental agencies. It may be too early to tell, but the features relating to the formation of new agencies appear to be of substantial benefit. The absolute veto power of the commission has caused considerable concern, particularly in the case of small annexations where the interest of over all governmental efficiency is often not involved. The proposed reorganization law emphasizes one serious flaw in the present structure of the formation and annexation commission. The people's will can be vetoed regardless of its strength. It would seem that in areas where there is substantial population, a procedure can be set up so that the local people through a vote can over-ride the decisions of the local agency formation commission.

ACT OBJECTIVES

The proposed act objectives are generally laudible except that in the second paragraph, the language of the last sentence is needlessly hostile to the concept of special districts. In this state and throughout the country there is a growing realization that certain types of problems can only be handled through special districts. I would suggest therefore that the implication that districts might be used for "illegitimate" public needs is unnecessary. It is not reasonable to say that other agencies of local government should be given top priority in solving problems, and only "when they are unwilling or unable" to provide the needs, then districts should be considered. I would suggest that the words "are unwilling and unable" be changed to "cannot efficiently". Good government should have no organizational favorites. Cities can be just as inefficient, and in many cases more inefficient, than special districts. Certainly such broad language should not be used because of some isolated cases of special districts created by the Legislature for special purposes. We are primarily concerned here with the many general law districts, most of which are doing a job more efficiently, I am sure, than it could be done in any other way. Examples are metropolitan water districts, smog districts, transit districts and other such districts.

Certainly it should not be necessary to wait to see whether other local governmental agencies are unable or unwilling to provide a given service. It may be that they would be both able and willing but incapable of providing the service efficiently

or in the best public interest. What we should be concerned with is efficient government without any pre-determinations of which type of agency is best to provide the given service.

JURISDICTIONAL AUTHORITY UNDER THE ACT

Roll of Local Legislative Bodies: To save the local agency formation commission a great deal of work it appears that a principal part of this new legislation is to eliminate the need for hearing and notice. I suggest that this procedure be further simplified to provide that local agencies desiring annexations, detachments and minor boundary changes be authorized to proceed with those in accordance with present law, subject to providing to local agency formation commission a written 21-day notice. If during that period the commission desires to take jurisdiction it should do so by serving formal notice to the agency and then the present procedure of notice and hearing can be followed. This will leave to the commission the burden of determining the actions of the local governmental agencies in which they should accept jurisdiction.

EVALUATION OF ANNEXATION UNDER PRESENT LAW

Section 54765 of the Government Code, paragraph 2, will create duplication of government activity and allow the commission to make decisions which only can be done after elaborate study by highly qualified and trained technical people, the most competent of whom are generally on the staff of the cities or districts affected by the decisions that will be made. This paragraph should be reduced to its first phrase, "the need for organized community services". "The present cost and adequacy of governmental services and controls, the probable need for such future services and controls, and the effective alternative courses of action on the cost and adequacy of services and controls" is a broad field. In the water field alone, committees and men have spent years determining the most effective methods of providing for the extensions of services and in some local cases, local commission have with the wave of a hand said a certain district should not have a certain policy concerning payment for facilities to be constructed. Most commissions do not wish to enter this field, but here they are given the authority to do so and can upset the carefully laid plans and well thought out government programs established by districts and cities for years. Repeal or amendment of this particular part of the local agency commission act is essential. However, this same paragraph when applied to the creation of new districts or agencies has much meaning. Someone has to make these decisions and in this case it may be that the commission is the best qualified or at least at the present time the only way to make objective determination.

REVIEW OF COMMISSION DECISIONS

The commission can provide a level control of governmental agencies that will benefit everyone, but there must be some recourse from all of the commission's decisions. The recourse might either be judicial or electoral. An electoral proceeding which is initiated by a 10% petition of voters and confirmed by vote of a majority of those voting at a given election could provide a recourse for people in populated areas who happen to disagree with the decisions of the commission. As a practical matter this procedure would be used very infrequently. In those cases where it is used there will be no doubt that the people are willing to pay for the form of government that

the commission may feel will be inefficient or improper.

There has been much talk in both political parties about the need for local government. I think we all believe that as long as the government serves the needs of the people in an efficient and responsive way, it is the best government we can have. By establishing a commission with veto over every change in the character or scope of local government and not allowing any recourse, the strength of local government and the effectiveness of the people's voice in its conduct has been greatly reduced.

Thank you very much.

CHAIRMAN KNOX: Mr. Gilbert, one thing that I hope that your association gives some thought to is this matter of the "people's voice". Everybody talks about the voice and will of the people. There is some question in my mind whether the usual district election with its poor turnout actually represents the people's voice. When you have a very small turnout at the election, when people don't even know that the election's going on, when they don't know who are the candidates for office and don't know the incumbents, and then allege that this is the people's voice -- that just isn't the people's voice.

It seems to me that we ought to give some thought to the possibility that the people's voice is sometimes heard in one election but not really in another election. I am just not too impressed when somebody tells me the people's voice is heard in one of these district elections when less than five percent of the people vote, and when the district itself does a great deal to make sure they don't know about the election and discourages anybody running against the incumbents.

MR. GILBERT: In the North Marin County Water District, where I've been for a number of years, we haven't had very many people voting in elections for directors recently. We haven't had elections because there have not been people who have been interested in running for directors. However, when we had a water problem in 1960 there was a substantial interest; there was a greater turnout. I think that where you have a utility district, which has a tendency to be somewhat removed from the

day-to-day political life of the community, there is naturally going to be less interest. That's the only answer I can give.

CHAIRMAN KNOX: Thank you very much.

Mr. Jess Senecal of the Public Water Agencies Group.

MR. SENECAL: Mr. Chairman and members of the committee. My name is Jess Senecal. I am an attorney with Burris and Lagerlof. I am appearing today on behalf of the Public Water Agencies Group. The group consists of thirteen public districts located in the County of Los Angeles. The members of the Public Water Agencies Group are:

Baldwin Park County Water District
Kinneloa Irrigation District
La Puente Valley County Water District
Newhall County Water District
Orchard Dale County Water District
Palmdale Irrigation District
Palm Ranch Irrigation District
Paramount County Water District
Pico County Water District
Rowland Area County Water District
Walnut Valley Water District

This group has a combined service area of approximately two hundred thousand acres and serves water to approximately one hundred fifty thousand people in the incorporated and unincorporated areas of the County of Los Angeles. Each of these members has substantial water production, transmission and distribution facilities.

The Public Water Agencies Group, and for that matter all public water districts, are well aware of the fact that for several years there has been criticism leveled at special districts. The usual terminology applied, to sum up the alleged problem, is the "proliferation of special districts."

When the general subject matter of this committee study was entitled "Uniform Consolidation, Dissolution and Withdrawal Procedures for Special Districts", a statement was presented to you at your January 16th hearing in Los Angeles. Briefly, the recommendations made on behalf of the public water districts at that hearing were as follows:

1) As to consolidation procedures, the water districts felt that if the specific Acts under which they were formed did not now provide the necessary means for consolidation, such should be added by the Legislature.

2) As to withdrawal procedures, it was acknowledged by the public water districts that some specific legislation was needed to solve problems arising upon the withdrawal of territory from the area of a water district and the resulting interference with previous sound engineering and financial planning.

3) As to dissolution, the districts felt that the statutes at present were adequate, with the exception of the problem created by the court-made legislation regarding automatic mergers.

4) As to automatic mergers, the public districts requested that the Legislature consider either overruling the doctrine of automatic merger or in the alternative specifically define the consequences following from the court's declaration and provide for the proper protection of the rights of the district inhabitants at the polls.

By way of supplement to this presentation, we again direct your attention to the formal statement presented at the January 16th hearing.

Since the subject of the history of water districts and their unquestioned contribution to the growth and development of the State of California is well known to each of you, and has been adequately covered on many prior occasions, I will not delve into that matter except to say that it appears that the districts have been responsible for creating the very governments which now intend to devour them.

Also without great amplification, but by way of preface, I would like to point out that throughout this presentation the public water districts will be stressing the fact that their situation is unique and for that reason they should not be lumped together with all other types of special districts which may very well require reform and reorganization.

Water districts were among the first of special districts created in California. Based on information we have, we believe that the problems regarding the operations of special districts are found in connection with the various districts established in recent years and do not have any application in the cause of public water districts. Water districts, as operating entities, are not involved in matters of local governmental administration and this provides an additional reason for treating water districts separately.

At the January 16th hearing, the Chairman of this committee announced the purpose to be "the development of a strong case for the feasibility of drafting uniform dissolution, consolidation and withdrawal statutes which would apply to most, if not all, districts". The Chairman continued that the key emphasis in this approach was "a desire to provide easily accessible and uniform procedures so that a special district reform may be accomplished when and where it is needed".

The need for uniform procedures where conflict and confusion exists is not challenged. However, the Public Water Agencies Group submits first, that there is no conflict or confusion in the case of the operation of public water districts, and second, that the proposed Reorganization Act does not provide such uniform procedures. Instead,

the thrust of the proposed act is merely to grant additional powers to the Local Agency formation and Annexation Commission to enable it to pass on district reorganization proceedings without specification of uniformity of procedure. The proposed act does not detail the criteria nor the uniform procedures to be adopted and followed by the Local Agency Formation and Annexation Commission.

The proposed Act grants the life or death authority over districts to the local agency formation and annexation commissions, commissions which are not yet a year old, commissions which are still struggling with their own organizational and administrative problems, commissions which still remain untried and untested.

In the case of public water districts, there are, to our knowledge, no overlapping of governmental functions. The districts are established for economic reasons and their creation is dictated by physical and not political facts. In their operations, they are no different from investor-owned public utilities in that they can economically serve in more than one jurisdiction.

More important perhaps than the lack of experience these commissions have had, is the fact that the commissions are not elected representatives of any person or group of persons affected by their decisions or upon whose proposals they act. The commissions consist of two representatives of the cities, two members of the county board of supervisors, and a fifth regular member selected by the first four. These city and county oriented members are proposed, under the District Reorganization Act, to be given the power to decide the future of special districts. As Assemblyman Lanterman stated in the January hearing of this Committee, "by creating the Local Agency Formation Commissions the Legislature has disbursed authority from the local legislative body and given the veto power to people who may not necessarily represent any of them. From the standpoint of the official legislative body, the authority has been passed (from them)..... to people not elected.... (by those) affected. With that idea in mind, it would seem to me that we must re-examine his concept of the agency formation commission. We ought to lay down explicit instructions to their authority, particularly if they are going to be given or granted additional veto authority by the Legislature".

In an effort to place the matter in its proper perspective, when we consider the proposal under the District Reorganization Act to give additional power to these commissions, we must keep in mind the fact that the commissions themselves are proposing new legislation to expand and increase their authority. Among the recommendations made by the Executive Officer of the Los Angeles County Formation Commission to the Governor's Coordinating Council on Urban Policy was a request to eliminate the County Boundary Commissions and transfer their functions to the formation commissions as well as proposals to enable the commission to initiate all types of reorganization procedures upon their own motion. Add to this the fact that the cities, who are instrumental in obtaining the adoption of the legislation creating these commissions, now want the commissions to be required to act in all matters with the specific purpose of providing priorities to city requests. In a recent report the League of California Cities' subcommittee on Formation Commissions proposes that in any proposal submitted to the commission, first priority be given to city

annexations. The order of preference in the event annexation to a city is not recommended is as follows:

1) Incorporation to a city;
2) Creation of a county service area;
3) Annexation to an existing district; and
4) Only if none of the other avenues would provide the required services would the commission be allowed to approve the formation of a new special district.

In view of the foregoing, we are forced to conclude that the proposed act will not accomplish any of the objectives stated in January. It is apparent, however, that there has been some change in the committee's approach as a result of the further study since the January hearings. The objectives of the proposed act, as stated in the preamble, provide that the primary objective is to assure that "needed local public improvements and services will be furnished by the local agency best able to provide the same with the greatest efficiency and the least cost to the public".

There is obviously no one who will appear before you who can challenge or quarrel with this most desirable objective. However, after stating in the preamble that "special districts have been and will continue to be one of the most useful tools for furthering this general objective", the preamble states that the act is designed to insure that special districts are used only to meet the legitimate public needs when there is no other agency of local government willing and able to provide the required services.

It is with this statement of the preamble that the Public Water Agencies Group takes exception. If priorities for the establishment of governmental units are needed, the test of criteria for the use of a city rather than a special district should not merely be the desire or ability of the city to provide the service but rather, a district should be allowed to form and operate unless there is another entity which can provide better or more economical service. Not only does the statement in the preamble infer that districts might be used for illegitimate public needs, but it also seems to imply that in all cases other forms of government will do a better and more efficient job.

To illustrate what we believe to be the fallacy in the implication just referred to, I would like to briefly mention the facts surrounding the recent merger of the Downey County Water District with the City of Downey. After more than five years of litigation the courts finally ordered that the Downey County Water District transfer all of its assets and facilities to the City of Downey. At that time the District had for many years successfully operated and had charged water rates in amounts sufficient to meet the operating and maintenance expenses of the District. In addition, it had managed to amass approximately one hundred thousand dollars in cash reserves. On December 31, 1963, the city took over the one hundred thousand dollars cash, assets worth more than seven million dollars, and transferred these to the city's funds. Less than six months later the city, providing the very same service the district did, has increased its staff to accomplish the same service, has

apparently dissipated the one hundred thousand dollars cash reserve, and has increased water rates by forty per cent.

We believe it is obvious from this one illustration that at least in this instance the desired efficiency and economy in government by the automatic merger of the special district did not result. There was, and is, no protection for the inhabitants of the district under such circumstances and as a result the public good and welfare were not being served.

Absent a demonstration that there is a pressing need for placing the control of these districts in the hands of the formation commissions, we submit that there is no possibility that the proposed reorganization act will accomplish the announced objective.

The Public Water Agencies Group further objects to the proposed reorganization act specifically with respect to the proposed scope of its application. Conceding that there are vices existent in the operations of certain special districts, there has not been demonstrated to our knowledge any reason which would require the inclusion of water districts in such a blanket indictment. There are instances where there is neither a desire nor a need for the formation of a municipal corporation. There are also instances where the establishment of municipal corporations, based on purely political determinations, does not lend itself to the operation of a water system, which is not established on the same basis.

It should be always kept in mind that the service of water by city is a proprietary function and therefore a service which the city need not render. Water districts are not entities which lend themselves to artificial political boundaries. Instead, they are designed and constructed on sound engineering principles to include the necessary resources of production, storage and distribution.

The Public Water Agencies Group, therefore, submits that if there is to be a uniform district reorganization law that the water districts, just as the school and improvement districts, should be excluded from the scope of the proposed act.

At the initial hearings on the study of this matter it was stated that the creation of uniform rules and provisions for reorganization would ultimately result in preserving and retaining local control. The provisions of the proposed act, which would expand the present authority of the local agency formation and annexation commissions to enable such commissions to initiate proceedings involving reorganization, are directly in conflict with the announced objective of preserving local control. This expanded authority would enable these commissions to force upon the inhabitants of the districts changes in their organization, which might be neither desired nor acceptable to the water users within the district. Their only recourse under the present proposal would be to present these arguments to the commission which initiated the proceeding itself, but the Public Water Agencies Group feels that this is an inadequate safeguard for the protection of the rights granted to the inhabitants under the Water Districts Acts.

The Public Water Agencies Group sees additional problems arising from an expansion of the Local Agency Formation and Annexation Commission's involvement in district reorganization matters. If after the hearing before the commission the district, during the course of its own hearings, receives protests and dtermines that certain exclusions are in order, the enlarged authority granted to the commission would seem to require further proceedings before the commission. This situation could lead to repeated hearings and appearances before both the commission and the district board in order to finally resolve the proposed reorganization. Such would involve additional delay and needless expense and could be avoided by eliminating from the commission's authority any control over the additions to or exclusions from water districts.

There is one final point regarding the proposed Act to which the Public Water Agencies Group urges that much more study and consideration be given. These are the provisions relating to the automatic merger and the subsidiary district ideas proposed in the act. The group feels, initially, that any provisions calling for the merger of the districts under such arbitrary conditions is unrealistic. The Group has yet to hear any justification for the automatic transfer of the assets and facilities of a district to a city which completely envelops it. It has been said that such will eliminate a duplication of functions. However, this argument is only valid if the annexing city is presently engaged in the service of water. Therefore, the Group feels that any such automatic merger should be limited to those situations where the annexing or incorporating city has an operating water department. The Group also feels that other conditions should be imposed on the operation of any mergers if in fact the Legislature finds there is a need for such involuntary dissolution proceedings. Under the proposed act, if eighty percent of the district is encompassed by a city, the Board of Supervisors of the county in which the district is located could declare either a merger of the district or establish a subsidiary district. The Group first inquiries what logical basis could there be for selecting eighty percent?

Assume for example that eighty percent of the district is within City A and twenty percent of the district within City B. The eighty percent could be merged with City A or become a subsidiary district operated by City A. That city, however, could not serve water to the remaining portion of the district located within City B without the express consent of City B. If such consent is not given, and under the present law there is no method for compelling such consent or eliminating its requirement, it is obvious that litigation would result or the non-consenting city would then take over the remaining twenty percent of the district system. This would obviously lead to an arbitrary and probably uneconomic division of a water distribution system.

Assume another example where eighty percent of the district is included within a city and a merger occurs. Upon a merger will eighty percent of the assets and liabilities pass? If so, which eighty percent? Which pipe lines? Which wells?

The Group submits that as a result of the Downey Case, if the Legislature concludes that mergers are desirable, there must be specific resolution of the problems resulting from the doctrine of merger. This would include:

1) The establishment of the mechanics of the transfer of the assets;

2) Provisions relating to the assumption of liability and this involves a determination of whether the entire city should then become liable for outstanding bonded indebtedness or whether the indebtedness remains a lien upon the land of the former district while the assets no longer are used exclusively for the benefit of such lands;

3) The specific declaration of the rights of employees of such district; and

4) The liability, if any, of the directors and officers of such districts prior to and after the merger or establishment of the subsidiary district.

Another matter of concern to the Public Water Agencies Group results from the provisions which would enable the establishment of subsidiary districts. According to the outline prepared by the committee, upon such declaration, the city council would succeed to the offices formerly held by the district board of directors, but the district would continue to operate in all other respects according to the provisions of the act under which the district was created. We envision many problems and difficulties arising from such an approach. For example, would this enable the city, which presently has limitations upon its bonding or debt capacity, to make use of the more liberal provisions of the Water District Act and thereby avoid the constitutional and statutory limitations on such authority? In addition, there are many other powers which districts have which are not available presently to municipal corporations. These include the following:

1) The power to levy taxes without limitation as to amount;

2) The power to annex territory which is not contiguous;

3) The power to annex the territory of an entire municipality;

4) The power to commence and maintain actions for the purpose of asserting the water rights of the inhabitants of the district.

Would this mean that the cities would be able to take advantage of these expanded powers merely by declaring the existence of a subsidiary district?

Finally, with respect to the proposed solution of the automatic merger problem, the Public Water Agencies Group notes that the district reorganization act would provide for the submission of the question of merger or the creation of a subsidiary district to the voters. However, the electorate which would pass on the question would be either the area of the district affected or the entire city, including the affected area of the district, depending on the decision of the Board of Supervisors.

The Group submits that the only fair and proper handling of such matters must require an election solely within the area of the district. It is their assets which are being transferred. It is their continuing obligation for liability which results and it is their best interests which should be protected by the Legislature in this matter.

Conclusion

1) Assuming that there is a need for revision of reorganization procedures among certain of the myriad special districts existing in California, there is no need for such reform in the case of public water districts. These unique creatures of state government demand and require separate consideration.

2) The increase of power and jurisdiction of the local agency formation and annexation commissions, without establishing adequate standards or criteria, is not warranted.

3) As long as the commissions are given authority over special districts, there should be adequate representation of the districts' interests on the commission.

4) There are no facts to support the conclusion that city councils are able to operate the system of a public water district more efficiently or more economically than the district's board of directors.

5) The doctrine of merger by operation of law and the resulting confusion should be overruled by legislation or in the alternative legislation is needed to define the mechanics and consequences of such mergers and to provide for the protection of the rights of the inhabitants in the districts by allowing the persons affected to vote on the proposed merger and dissolution.

6) Further study of the proposed Reorganization Act, as it applies to public water districts, appears to be needed.

CHAIRMAN KNOX: If you want an example of a questionable water district, we had some extensive testimony yesterday on one called the Sierra Lakes County Water District. I don't think you'd brag about that one.

MR. SENECAL: I heard about that one. It apparently is a bond problem, and we weren't involved in a similar situation. Of course, I am aware of the few instances that can be cited, but we don't think this calls for a blanket indictment of all water districts, especially the ones involved in metropolitan areas.

CHAIRMAN KNOX: Mr. Willoughby for a brief question.

MR. WILLOUGHBY: You made the point that the local agency formation commissions are really ill-equipped to consider problems involving special districts because there is not a special district representative serving on the commission at the present time. It is not true that in all counties there are at least some districts that are operated by the county, that is, districts in which the board of supervisors finds itself the governing body of the district, and that the staff work for these districts is, in effect, done by the county staff, which is the same staff that's providing staff services to the local agency formation commission? It would seem, therefore, to me that most counties do, in fact, have a familiarity with district problems.

MR. SENECAL: If I might reply very briefly to that -- I think there is no question that the counties are to some extent familiar with the operation of the districts in which they act as the ex officio board members. However, we have found in our experience that, for example in Los Angeles County, several of the supervisors thought county water districts were among those which were under their control because it had the name "county" in it. We have found in other instances that the formation commissions have indicated that they construe the 1963 act to be their authority to destroy and take away all powers of special districts. With this kind of attitude and lack of knowledge concerning what a county water district is, for example, we have some doubts and reservations about the present situation, and thus would certainly urge that some consideration again be given to providing more representation on the formation commissions for districts.

CHAIRMAN KNOX: Thank you very much Mr. Senecal. We appreciate your coming. Our next witness is Mr. Alex Bowie of the firm of Rutan and Tucker. Mr. Bowie.

MR. BOWIE: Chairman Knox and members of the committee thank you for the opportunity to present a few brief comments on the matter now being considered by your committee. A review of the outline prepared for the proposed legislation would indicate that the problems sought to be eliminated are:

1. The absence of a satisfactory means of eliminating unnecessary district overlaps or for coordinating and simplifying the structures of overlapping districts.

2. The absence of a legislative procedure to govern a so-called automatic merger where a district is wholly included within a city.

The following is a summary of our comments on the outline of the proposed legislation:

1. A need for statutory procedure for reorganization of districts exists.

2. The doctrine of "automatic merger" should be abolished and such situations should be handled by a statutory procedure.

3. The doctrine of "automatic merger" should not be extended to situations where a district is not wholly incl uded within a city.

4. The ultimate decision in regard to annexations to districts should be made by the duly elected governing body of the particular district.

ANNEXATIONS TO SPECIAL DISTRICTS

A review of the outline of the proposed legislation would indicate that in both annexations and exclusions the ultimate decision for all effective purposes would be made by the Local Agency Formation Commission not the governing body of the particular district subject to at best a vote throughout the district as a whole. I believe that such a procedure creates the possibility of an inequitable result to persons who have included their property in special districts but who have as yet not undertaken the development of their property.

An example of such a situation would be where the owners of 20, 000 acres of heretofore agricultural land have formed a district and designed and constructed a project to provide a source of water and transmission facilities to bring a water supply a substantial distance to their property. Unless the original facilities were designed and constructed to a capacity greater than needed for the property originally included in the district, annexation of additional territory would deprive portions of the district of the capacity in the facilities designed and constructed for the development of the territory originally in the district. In this regard, the sentence commencing on line 6 of Section 1 of part VII of your outline states:

> If there is no majority protest, the Board of Directors must order the annexation or detachment as follows:

The alternatives set forth subsequent to that statement contemplate at best an election throughout the district as a whole. However, in a "popular vote" type of district the first residential development encompassing a relatively nominal portion of the district would determine the desirability of an annexation assuming a favorable determination by the Local Agency Formation Commission. In a "land owner" type of district the increased value of the developed portion of the district might well mean that the relatively nominal portion of the district already developed would determine the desirability of an annexation, again assuming a favorable decision by the local agency formation commission. This latter situation is the result of practices in some counties whereby the assessed value of property is not substantially increased until such time as residential or urban development is actually under construction. While it is true that the Board of Directors is similarly elected in both types of districts, it would seem that at least some degree of protection should be afforded by leaving the determination as to an annexation with the Board of Directors of the district subject to the prior approval of the Boundary Commission and the local agency formation commission as is now the case. To place this determination for all effective purposes in the hands of the local agency formation commission is to assume that in all instances and under all circumstances the interests represented by the two county officials and the two city officials and the member at large on any such commission will be consistent with the best interests of the particular district and the taxpayers and peoperty owners who originally formed the district to provide their own facilities and services to a specifically described area which was included within their particular district. I would doubt that this assumption will be correct in all such instances. In summary, consideration of a uniform procedure for annexation would be desirable. However, the ultimate decision in regard to an annexation and the establishment of terms and conditions thereon, if any, should rest with the Board of Directors of the particular district.

DISSOLUTIONS, CONSOLIDATIONS AND MERGERS

In regard to the suggested procedure for dissolution of districts it would seem that in areas formerly agricultural in nature where irrigation and drainage districts exist that the Board of Supervisors and persons residing in the residential development within such irrigation and drainage districts might be inclined to dissolve such districts regardless of the desire of some persons to continue to use their property for agricultural purposes which necessitate the continued operation and maintenance of the existing irrigation and drainage facilities. The opportunity to continue the agricultural use of their property would seem to be fair and equitable regardless of recent residential and urban development within the particular area. Any such dissolutions would raise the question as to what entity would operate and maintain the existing drainage and irrigation facilities so long as areas within the district were being devoted to agricultural purposes.

MERGER AND SUBSIDIARY DISTRICTS

It would appear desirable to establish by legislation the circumstances under which a district wholly situated within a city will merge with the city. The necessity

for an election within the district where it is wholly included within a city is both fair and equitable and would remove many of the present ambiguities in such situations. However, extending such a consequence to situations where an entity is not wholly contained within the boundaries of a city would seem to create an opportunity for certain inequities. For example, the balance of the voting power could be located wholly or substantially in the 80% of the area of the district inside the city. The resultant effect would be a situation where the owners or residents of the 20% of the district outside of the city would be governed by persons for whom they could neither vote for or against. The city council as the governing body of the subsidiary district could undertake projects financing of which could be obtained without any vote on a leaseback basis or by general obligation bonds voted by the persons residing in the portion of the district situated within the city. This is one possibility or potential inequity which would indicate that any such legislation should be limited to situations where the district is situated wholly within the boundaries of a particular city.

These comments are submitted in the spirit of a sincere interest in the problem now being studied by your committee and it is hoped that they might be of some value to you.

CHAIRMAN KNOX: Thank you Mr. Bowie.

Mr. Lathon B. Brewer, Division Fire Chief of the Fire Department of the County of Los Angeles.

MR. BREWER: Mr. Chairman, members of the committee. So far today we have heard testimony principally regarding sanitation, irrigation and water districts. I am concerned primarily with fire districts. I might say that this very committee worked a number of years on a unification of the fire district law. We had a chance to present testimony before this committee on the fire district law, and I'd like to thank you today for the results of that law. We think it's a good law; we like it. We think it does the job for us.

To be very brief about my presentation, we would like you to just leave us alone -- just let us go ahead and run our fire districts. But we find in your proposal as outlined that you propose to include all of us. We would prefer to be left out. You have done a good job with the fire district law. You came up with one that all the firemen in the state are satisfied with.

One suggestion that I might make is that perhaps you should not attempt to combine a law for fire districts, a law for water districts, and a law for various other districts. We don't feel that you should bring all these other factors into a law for a fire district which is principally a service organization. We don't sell a commodity; we sell a service. Water districts have some expenditures which require bonded indebtedness. We do not have any bonded indebtedness. We operate on a year to year basis and we pay cash as we go.

CHAIRMAN KNOX: Don't fire districts have any bonds?

MR. BREWER: We don't. In Los Angeles County, we have 70 fire districts. They are all governed by the board of supervisors. We find that this is a good working arrangement. We have a good legislative body. They govern the districts, they are responsible to all the people.

CHAIRMAN KNOX: You have one legislative body that contols all 70 districts?

I think in Contra Costa County we've got eight or nine fire districts all controlled by eight or nine boards of directors.

MR. BREWER: In Los Angeles County it is the board of supervisors. We feel that the Board of Supervisors in Los Angeles County is going a good job. They govern all of the districts. We have in effect a county-wide organization.

To get into the specifics of your proposal that detachments, annexations, and boundary changes be submitted to a vote of the people, we don't feel that this is right. We feel it imposes an added cost to our fire districts. I'd like to bring to the attention of the committee the cost that we are talking about. We are talking about the cost of an election. In our consolidated fire prevention district in Los Angeles County we have approximately a million and a half people. To hold an election in the

consolidated fire district would cost somewhere between $130,000 and $140,000. This is enough to buy four pumpers, two ladder trucks and some rescue trucks to build a station in addition. If we have to go through an election on boundary changes you can see that we would be in real trouble.

My office is responsible for processing annexations through the board of supervisors sometimes as many as 30 of them a month. We have some areas that are growing quite rapidly. We feel that annexations should not be submitted to a vote of the people where the board of supervisors is the governing body of the district. They are providing good government and we feel that this is adequate.

In the fire district act, you set up a very orderly procedure for reorganization or consolidation of the districts. These may go to the voters if the board so decides. I feel that in a case where the board of supervisors was faced with a controversial issue, they would submit the question to the electors. Our original operation involved 33 fire districts. This was boiled down to six, through consolidation. All that was necessary was a legal advertisement to comply with the Government Code requirement and then a public hearing. How much further this will go I don't know. It's been the policy adopted in the department and policy of the board, that as districts come together -- that is, as they have about the same tax rate and are providing the same service -- to consolidate them, to boil them down into a common working unit. Thus we are accomplishing some of the very things that this committee has outlined as objectives of the reorganization act.

So we object to the proposal of submitting changes in boundaries and consolidations to a vote of the people where the board is the governing body.

There are two other points I would like to make here. First, we concur in the recommendation that a 100% overlap should not automatically dissolve a district. We

have one situation coming up very shortly where the city is about to completely overlap a district. This is an isolated district in the desert area and the people don't want to be included in the large consolidated district. Very shortly the city will overlap it. I am just pointing this out as an illustration, because our fire district law does not make such a dissolution mandatory, but permissive depending upon the city council. We agree that this provision should be permissive and not mandatory.

The other point that I would like to make concerns an appeal procedure from the local agency formation commission. At the present time a petition submitted to the local agency formation commission may be turned down or modified so that perhaps we couldn't live with it. We have no appear procedure. We cannot appeal to our duly elected representatives in the county. We feel that some provision should be made for an appeal procedure from the local agency formation commission.

CHAIRMAN KNOX: Thank you, Chief.

Mr. R. A. Boege from the Union Sanitary District.

MR. BOEGE: My name is Raymond A. Boege, and I am the General Manager and Chief Engeineer of the Union Sanitary District. I am also the First Vice President of the California Sanitary and Sanitation Districts Association of California.

I merely want to elaborate on some incomplete comments of your first witness this morning, (Mrs. Marilyn Blawie).

Despite the election complaints in our district the incumbents did come through on the election with a three to one vote, which in our book meant that we were doing a good job.

The other problem that I wanted to mention was the multiplicity and attendant expense of district elections. Our association at our Lake Tahoe convention, as recently as this July adopted as part of our legislative program a bill which would

amend the Health and Safety Code, under which we operate, to permit districts to combine their elections with either the primary or the general election, thereby doing away with elections on the second Tuesday in September of each even-numbered year or whatever it might be. That's my answer to that point.

The second point I'd like to make is this. In page 1 of your outline you have indicated that there are no automatic merger provisions by which a district is automatically merged with a city. Now we had an experience which demonstrates that there is adequate provision in the law for this and I'd like to recite this to you. Our district serves the cities of Fremont, Newark and Union City. The latter city was annexed to our district by a city-wide annexation which requires 75% petition of property owners, which is quite a chore. But this followed the merger, or dissolution if you will, of the former Alvarado Sanitary District. So this was handled under existing legislation in the Health and Safety Code.

The third point I want to make is that the formation and annexation and even the dissolution of sanitary districts is adequately covered in the Health and Safety Code as it now stands. Furthermore we have a legal staff of our association that is continually looking at these things. Every other year we propose legislation and many of our bills have gone through which you gentlemen are no doubt aware of.

CHAIRMAN KNOX: I carried your entire program last year.

MR. BOEGE: Correct.

The only last comment I want to make is this. We have no problem whatsoever with the local agency formation commission in our county. We are working hand in glove with them. We think it's fine. However, I would like to say that I think the committee should be very cautious in expanding any of the powers that the commission now has -- anything that would bypass the present procedures which are outlined in

the Health and Safety Code insofar as petition, hearing and the election methods are concerned we feel these are presently adequate.

CHAIRMAN KNOX: Thank you, Mr. Boege. I appreciate your coming.

Mr. Gordon Nesvig of the Los Angeles County Local Agency Formation Commission.

MR. NESVIG: Mr. Chairman and members of the committee, my name is Gordon Nesvig. In addition to having a couple of jobs with Los Angeles County, I have the distinct privilege of being executive officer of Los Angeles County Local Agency Formation Commission, which is becoming a career. I did think that the committee would like to know what has happened in Los Angeles County and that a few kind words about the Local Agency Formation Commission would be refreshing.

Our commission has considered 119 city annexations and 227 special district proceedings. We have approved 93 city annexations and we have approved 18 with conditions. We have denied three and allowed five to be withdrawn. In addition there were some we have negotiated with some of the various cities before coming to the commission.

I think it's significant to state that we have not turned down one special district annexation in Los Angeles County. This should alleviate some of the fears that the special district people have spoken of to your committee today.

But it also highlights the fact that we don't know too much about what's happening in Los Angeles County with regard to special districts. In Fresno, as you recall, when your chairman spoke to the local agency formation commissions, he warned us that this legislation was going to come about in 1965 and it frankly scared us a little bit. Our commission instructed its staff to begin a program of enlightenment in our county to find out what was going on. So we did, with some very startling results.

We made a survey of the multitude of statutory provisions governing special districts, and we now have at our fingertips the various procedures by which special districts may be created or annexed in our county. Recently we sent out a questionnaire to the 57 self-governing special districts in our county asking them some very fundamental questions. We received some 30 odd replies from these special districts, some of which were very strange indeed. For example, we wanted to know what their total area and population was. We found either that some of them don't know or that they refuse to say. In looking at some of the functions that they perform we find that they don't really know whether they are to perform one or five different functions, according to our questionnaire now.

We have, for instance, four soil conservation districts in the county, who reportedly provide one to five special functions. Yet, all of the four reported that they had no employees. One had no annual budget. One didn't report what its budget was. Of the other two, one had a budget of $1,000 a year and the other had a budget of $400. Each of these has a secretary that you can go to though and talk to.

More confusing to us was the size of the districts. The one reporting a $1,000 annual budget includes 84,000 acres and has a population of about 10,000 people. The one with the budget of $400 has 100,000 people and contains 424,000 acres.

All of this may or may not be significant; but what we are trying to find out is what is actually happening in the special districts in Los Angeles County. We don't know, and no one else does either, but we think we should find out. Any additional authority that we think we should have, should include the legislative support of these commissions in the area of fact finding. We find this out in not only special district proceedings but in regard to annexations to cities and the formation of cities.

I may add parenthetically that we have had no formations. We have had no incorporations. So if the commission has had any good effects it has prevented the creation of special purpose cities for one thing and special districts for special purposes also.

We think that we need additional authority which will allow us to have some standing and some status to go out and ask the cities to tell us what they intend to do and to ask the special districts to tell us what they intend to do. We want to be able to go out with some sort of a badge and say, "all right, we want to know -- we think we have the authority to know. If we don't know we can't do a good job for you", and we need this type of authority.

CHAIRMAN KNOX: Mr. Lanterman

ASSEMBLYMAN LANTERMAN: Mr. Nesvig, is it possible to find out the amount of cost for a service supplied by a district versus that for the same service supplied by a city so that we can have some idea in an area like Los Angeles as to whether or not the costs are comparable, or whether the district's doing a more economical job than many cities or many counties.

You can get too big in your county britches and you can have too much overhead. You know that as well as I do. I would like to see a survey made on the comparability of costs across the state to see whether or not some of these things were extortionate, or whether they were exorbitant or whether they were economical. I hear a lot of statements, a lot of accusations. I haven't yet seen the facts to back them up. Have you any information?

MR. NESVIG: What you're asking is something that is exactly what we're getting at in my recommendation to this committee. We need the information that you are asking in the local Los Angeles County area. We do not have the facilities

to get this information at this time. I think that we must have a properly constituted agency of government rather than a private agency, such as a college or university to make such a survey so that we can actually have one of our employees go out and obtain this information from the district. We have an irrigation district in that county that doesn't even know what its boundaries are. We still don't know, we can't find out. But if we had the authority we could go in and check their books. They can get the information; the information is available. It's just a question of setting up the procedure to get it.

MR. LANTERMAN: Can't your board of supervisors request the information?

MR. NESVIG: I think they can.

CHAIRMAN KNOX: This need for information is one of the reasons for the local agency formation commission. In many cases it's obvious that the district method of providing service is the most economical. In many cases it's not. That's the reason we want somebody around who's going to decide.

MR. VENEMAN: I may be confused. I was under the impression that your county assessor would have the definitions of the boundaries of all special districts, that your county auditor was required to have certain records on special districts, and that the State Controller sent out an annual report on the special districts in the State of California. Is this correct?

MR. NESVIG: That is absolutely correct, but it's not always the correct information.

MR. VENEMAN: Do you want the authority to review the boundaries in the assessor's office on the irrigation districts?

MR. NESVIG: We want to at least be able to determine those boundaries, yes.

MR. LANTERMAN: What would your county boundary commission say about the preciseness of the boundary, if they had nothing on which to base their judgment?

MR. NESVIG: In this case the action was taken before the boundary commission was created. Now we would have a definite and certain boundary as the result of the legislation creating the boundary commission.

MR. LANTERMAN: How does the assessor apply the zone area tax in the irrigation district?

MR. NESVIG: This particular irrigation district does not have a tax and it is operated strictly on a bonded indebtedness program, so they don't really care what their boundaries are.

MR. LANTERMAN: Where is it located?

MR. NESVIG: In Menlo Park.

CHAIRMAN KNOX: Thank you very much Mr. Nesvig.

Mr. Gill.

MR. GILL: I am Joseph C. Gill, District Counsel for the Los Angeles County Sanitation Districts. I want to say that the suggestion of the uniform act repealing the automatic merger doctrine I believe to be a good one because I think there are more problems than the court would realize with automatic district mergers.

In Los Angeles County we have two districts, county sanitation districts #23 and #29 both of which are entirely located within a city. #23 is located entirely in Vernon. It was formed at the request of the City of Vernon to take care of sewage, to get it to the ocean through the joint outfall operation of the county. They would be the last to want to see any merger effected, because it would destroy the very purpose of having formed the district. The city council is the board of directors of that district.

#29 Signal Hill, has been a city for I think over 50 years, and just last year they formed a district. They had been handling their sewage with a contract, but it got beyond the point where we could handle the contract. They needed new facilities which could only be financed by bond issue. Therefore, they formed a district. Thus I would suggest that any provision in the general act which would provide for authority by the local agency formation commission on the subject be made contingent on approval of the city. In other words, if any particular district is entirely located within a city, the local agency formation commission should not have authority to merge it into the city, or even create a subsidiary district, without the city's consent. With that provision Vernon would be protected. Signal Hill would be protected in preserving the sanitation district which they created to get their sewage through the facilities of District 2, District 1, District 8, 5, 3 and so forth until it ultimately gets to the ocean.

If there is going to be a merger, I think that it should be contingent upon city approval, and I don't think there should be one automatically.

I wanted to comment briefly on the power of the local agency formation commission to initiate a proceeding on its own motion. I think this is of dubious necessity or advisability. If the people who have the power to petition are not sufficiently concerned, I question the wisdom or desirability of having some appointed agency like the local agency formation commission initiate on its own motion these various procedures.

I have specifically in mind CountySanitation District annexations. We have in Los Angeles County 23 sanitation districts. Normally annexations come about by subdividers coming to the sanitation district and requesting to be annexed. The

subdivider decides with which district, if any, it would be technically feasible for his subdivision to be connected. He is asked to pay his annexation fees and the process is gone through by the local agency formation commission. None has been denied to my knowledge, because every landowner in a sanitation district annexation consents in advance by bringing his money in -- $149 an acre, $120 an acre, whatever it is -- in order to be on a parity with all those who have been in the district all along.

If you impose upon the local agency formation commission the duty to investigate and determine whether or not organizational changes are needed, or annexation should be made they are going in some extent to duplicate the very service which the county sanitation district staff for 50 years or so has provided. In Los Angeles County the board of supervisors won't agree to form a county sanitation district without going to sanitation district staff and asking if it is feasible. We make this feasibility study and we advise them. If they determine on our investigation that it's technically feasible then they'll pass a resolution of intention to form a sanitation district. So I think that unwittingly the committee could find themselves in a situation where its efforts are being duplicated at unnecessary expense. Thank you.

CHAIRMAN KNOX: Mr. Small.

MR. SMALL: My name is Bob Small, I'm executive officer for the San Diego local agency formation commission. I don't believe that the staff of any formation commission in the state is looking for more work. I think that the staffs and the members of the commissions feel that in order to fulfill their present responsibilities, which were given to them by the 1963 session of the Legislature,

powers such as those which have been discussed today are probably in order. If we are going to talk about district annexations, if we are going to talk about city annexations, district formations, city incorporations -- we are at the same time going to be talking about district consolidations, district dissolutions, etc. This is a question, this is an alternative which comes up in the natural course of events.

It seems to me that in the discussion today what we have been talking about is how effective have the formation commissions been up to this point. Another question also seems to be whether or not the special districts have anything to fear from the formation commissions. I would like to relate to you very briefly what the experience has been in San Diego County.

For example, the San Diego County Division of the League of California Cities was the only division of the League in the State of California which took a formal action in opposition to Assemblyman Knox's bill and to Senator Nisbet's bill. The present chairman of the San Diego Local Agency Formation Commission, Erwin Sklar, of Oceanside, was the representative to the board of directors of the League and was the only man in the room who stood up and voted no. When the Governor's Coordinating Council on Urban Policy was in San Diego in June, he stated that now he is a firm advocate and convert and that he believes very strongly that this is one of the best things that has happened to local government in San Diego in his experience.

We have been trying to work with the cities and the districts, and I think we have been successful in this effort. I have talked to a number of attorneys in

San Diego who are quite active in water district affairs. I've talked to other attorneys too. All of them very often comment that the thing that surprised them is that something like this did not happen before. How did we get along without it before.

We've talked to cities. The City of Escondido, for example, was adopting resolutions as late as September and October of last year requesting the Governor to place under special call for the 1964 session the que stion of repeal of the formation commission legislation. And now, we have, I think, some converts in Escondido, who are willing to come before any committee of the Legislature and say that they think that the formation commission has worked out well and is doing a good job. I'm not trying to pat myself on the back, but I am trying to relate the success of the formation commissions in performing their responsibilities up to this point and to their capacity.

I would like to conclude by saying that I understand that your committee is considering as a part of its interim committee work an evaluation of the formation commission's activities up to this point. I'd like to invite this committee or a subcommittee of the full committee to come to San Diego County, and I think that we can pretty much verify the idea that this has been a good thing for local government in San Diego County and in California as a whole.

CHAIRMAN KNOX: Thank you very much, Mr. Small. That's encouraging.

Mr. Merelman.

MR. MERELMAN: Mr. Chairman and members of the committee, my name is Jack Merelman. I represent the County Supervisors Association of California. We do not ask for the time to make a formal statement to the committee

today, Mr. chairman, because at your hearing in Los Angeles you gave us quite a bit of time to develop our background studies and reflections in this field. The transcript will amply set forward, I am sure, our views on this subject.

At that time we did indicate that, based on a five-year study in the Supervisors Association of "The Special District Problem", it was our belief that something along the order of the proposed District Reorganization Act of 1965 was certainly in order and needed by California.

At no time has my board of directors ever said that all special districts are bad. To the contrary we have always said that many special districts are well organized and perform a very valuable service that the people are willing to work for and to pay for. But we expressed concern that, as the state has grown from 7 million people to 14 million people with 3,000 special districts, and tomorrow maybe 25, 30, or even 40 million people, the sheer multiplicity of districts, the sheer weight of districts with all of the problems that are discussed here today might prove a real burden to the State of California. They might deter us from providing for the orderly growth of the state.

We supported then, and we do now, the objectives and the approach of the act before us. At that time, based on our early observations of the local agency formation commissions, perhaps we were the first to suggest that the Legislature should consider an enlarged role for these commissions. We pointed out that, without such an enlarged role, perhaps California would be needlessly throwing away a unique opportunity to provide for orderly growth. We suggested that for the first time in history, a formal organization comprised of men close to local problems, elected city officials, county officials and citizens, would work on an organized basis to study the county. We suggested that, for the first time in the history of the state,

somebody should make detailed and comprehensive reports of the governmental structure of the county, and that we would be needlessly wasting that knowledge if this body could not at least initiate efforts toward dissolution, merger and that sort of thing, with the vote of the people in any case.

Here today I have sensed that some of the tenor of the testimony would suggest that we are gathered to talk about a proposal that pits cities against special districts, or special districts against cities. All of this brings back the old question of the Santa Fe Springs District and the dissolution and the distribution of assets. Or else it has been suggested that we are here to talk about counties versus special districts, or perhaps even cities and counties through a local agency formation commission ganging up on special districts.

I do not view this proposal in that light. I think that what we are here to talk about is something much deeper philosophically and governmentally. I'm talking about the perpetuation and the future of local government, because for those of us who work for local government and believe in local government, we sincerely think that we are under attack, and that the results of the 1963 Legislature gave us a lease on life or perhaps even maybe a last chance to get ourselves in order in California, and demonstrate to the poeple of California that we can provide for the orderly growth of the state.

Now you may say "scare words" or "an alarmist". I don't think so. I don't have to be either because there is an organized powerful body of thought in this state that looks favorably upon increased state control of local affairs. It is certainly at work in the Legislature. You needn't go further back than the 1960 report of the Governor's Commission on Metropolitan Area Problems. That report shocked many

of us. So much so that my boss, Bill MacDougall, and Richard Carpenter, his counterpart, with the League of California Cities, felt compelled to write dissenting statements to that report. Why? Because it pointed to some sort of Metro super district, and it also pointed to strong state control, perhaps through an enlarged state planning office.

We submit that we are talking about the preservation of grass roots oriented government. I'm not just talking about the traditional government that we think of as cities and counties, but special districts which also have a grass roots orientation. They depend on a property tax and, as many people have told county supervisors, what could be more home-rule-like than a special district in many cases? Wouldn't it be better for a special district to proceed through a local agency formation commission composed of its friends and neighbors, people who are close to a local problem, than to have to submit their problems to some super state agency in Sacramento? Then that agency from 500 miles away could say "no, we don't think you should annex that 1/4 of an acre". We submit that that is what we are going to come to in this state if local government cannot prove itself.

More than that, let's look at the federal government. Some of us have just returned from the annual meeting of the National Association of Counties. The federal government is putting money into services for people. We have received money for regional planning. We received vast amounts of money for highways. We now have the brand new Clean Air Act which brings federal money into air pollution. We have clean water acts. There is hardly an area that does not see the advent and entry of federal money. Right now, the federal government encourages regional efforts;

the encourage cooperative efforts and contracts between agencies of government. But who knows? Tomorrow they may tell us that the quid pro quo for federal money is to get your house in order governmentally. They may tell us that we must have a reduced number of governmental entities.

When you attend these annual meetings it's almost frightening to see some of the things that are in the wind at the federal level; and that we are close to here at the state level.

So I submit that we are talking about more than just a new bill to help clarify a special district problem. We're talking about the future of state and county government and city government and special districts in California. I think this is the vehicle that will enable us to solve those problems. We would like to think, based on everything we have heard, seen and read about the local agency formation commission that they are succeeding; and that local government is doing the job.

That's the only note that I would inject at this particular time. You have our support, and particularly for those efforts that would enrich the role of the local agency formation commission. Thank you.

CHAIRMAN KNOX: Thanks, Jack, very much.

That concludes the witnesses we have for today. I want to express the gratitude of the entire commiteee for all of you who came, in some cases long distances, to be with us. If anyone has additional communications, if you would write to my office at the State Capitol. Believe me, it will be paid attention to. We'd be glad to have your views.

With that the meeting is adjourned.

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September 28, 1964

California Legislature
Assembly Committee on
Municipal and County Government
Room 5175, State Capitol
Sacramento, California

Attention: Hon. John T. Knox, Chairman

Re: Proposed District Recorganization Act of 1965

Gentlemen:

From time to time, this office represents persons who have an interest in the proposed district reorganization act of 1965. Accordingly, we respectfully submit the following comments concerning the proposed act as set out in your outline dated September 1, 1964:

1. Annexation Procedures. According to the outline, proceedings for annexation (as well as other reorganization changes) may be initiated by petition of property owners, by the local agency, or by the local agency formation commission. Regardless of how the proceedings are initiated, once the local agency formation commission approves a proposal, in full or in part, the board of directors of an affected district must, if the territory proposed to be annexed is "inhabited", submit its order of annexation to the voters for confirmation. Although the board of directors has discretion whether to submit the matter only to the voters of the territory to be annexed, or to the voters of both such territory and the entire district, an election is mandatory.

We submit that the proposed act should include an alternative procedure, following approval by the local agency formation commission, whereby a formal election may be dispensed with where the annexation proposal has been initiated by the owners of 75% or more of the assessed valuation within the area to be annexed. Existing Health and Safety Code Sections 6876-6881, and Sections 6885-6887 provide such an alternative procedure with respect to annexations to sanitary districts. This office has found such procedure to be extremely expeditious and economical, as well as

eminently fair to the persons who are most directly interested, that is, the owners of 75% or more of the assessed valuation of the property to be annexed.

We feel that an election should not be mandatory where the proposal is initiated by the owners of such a large proportion of the assessed valuation, for two reasons. First, non-property owning voters should not be permitted to obstruct annexation, as, for example, where the area to be annexed is populated by renters who have no long term interest in improvements within the area, and where the area is sparsely populated (yet "inhabited") and the bulk of the area is in the process of being subdivided and improved. Secondly, inasmuch as in the normal situation the owners of 75% or more of the assessed valuation within the area proposed to be annexed also represent a majority of the electorate within that area, it would seem that an election in such a case would be an expensive and wasteful formality.

2. Procedures for Detachments. We are of the opinion that it is essential for the proposed act to contain some procedure for the protection of the owner or owners of property within a district where the district provides no services or benefit to that property and where the district is operated or maintained solely for the purpose of preventing any other district or local agency from providing services or benefits to that property within the district. The procedure set out in the outline of September 1, 1964, appears to give the board of directors of a district too much leeway to prevent the detachment of property which is not being benefited or serviced by the district. According to the outline, the local agency formation commission cannot order a district to detach territory. Although the board of directors of a district must order a detachment in the absence of a majority protest (presumably by landowners or voters within the area proposed to be detached), the board has discretion to submit the proposed detachment to the vote of the electorate within the entire district. In the case of a truely "defensive" district, which is maintained in order to prevent another district or local agency from furnishing benefit or services to property within the district, such an election undoubtedly would kill the detachment proposal.

Although we note that the proposed act authorizes the Board of Supervisors to dissolve a district for non-use of corporate powers, it is not clear that dissolution proceedings would be appropriate in all cases of "defensive" districts. Also, the proposed act gives the Board of Supervisors discretion to order an election, presumably within the district, for approval of dissolution.

Such an election could very well kill the dissolution proceedings where a majority of voters is in favor of continuing the "defensive" district.

We strongly recommend that the proposed act include a provision whereby a detachment is mandatory upon petition of the owners of an extraordinarily high percentage of the assessed valuation within the area proposed to be detached, unless the board of directors of the district find, after a full hearing, that the district is able and willing to provide for the legitimate public needs (depending upon the type of district) of the property proposed to be detached.

Yours very truly,

Robert O. Angle

ROA:ma